



## GENERAL LAND USE APPLICATION

PUBLIC WORKS DEPARTMENT 125 E 8<sup>th</sup> AVENUE, EUGENE OR 97401 PLANNING: 682-3807

For Office Use Only: FILE # PA115853 CODE: DASR FEE: 2660-

Applicant (print name): ATR Land LLC

Mailing address: PO Box 876 Veneta OR 97487

Phone: Email: See Agent

Applicant Signature: \_\_\_\_\_

Agent (print name): Kim O'Dea Law Office of Bill Kloer PC

Mailing address: 375 W 4<sup>th</sup> St. Ste 204 Eugene OR 97401

Phone: 541 954 0095 Email: kimodua@landuseoregon.com

Agent Signature: \_\_\_\_\_

Land Owner (print name): Same as App

Mailing address: \_\_\_\_\_

Phone: Email: \_\_\_\_\_

Through applying for this application I authorize the Lane County Planning Director, designee, or hearings official to enter upon the property subject of the application to conduct a site visit necessary for processing the requested application. Lane County shall contact the Land Owner prior to the site visit to arrange an appropriate time for the site visit.

Land Owner Signature: \_\_\_\_\_

### LOCATION

19 01 20 3400  
Township - Range - Section - Taxlot

Site address: \_\_\_\_\_

PROPOSAL. In one sentence, identify what you are proposing.

Site Review for Quarry  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**NOTICE:** The Applicant is responsible for providing enough information in this application for staff to make reasonable findings.

**ADJOINING OWNERSHIP** Is any adjacent property under the same ownership as the subject property? List the map and tax lot(s).

unknown

**SITE PLAN** A site plan must be included. Refer to the handout entitled "How to prepare your plot plan". Identify nearby driveways. Driveways spacing standards are contained in Lane Code 15.138.

**ZONING:**

QM/F-2

**ACREAGE:**

63.5 (51.5 zoned QM)

**DESCRIBE THE ACCESS TO THE PROPERTY** (circle the answer):

State Hwy

County Rd

Public Rd

Private Easement (provide a copy)

Road name:

Oregon Properties Rd

**NUMBER OF EXISTING DWELLINGS ON PARCEL:**

0

**EXISTING IMPROVEMENTS:** What structures or development does the property contain? Will any structure be removed/demolished besides the existing dwelling?

None

**PHYSICAL FEATURES:** Describe the site.

- The Vegetation on the property:

Quarry and trees

- The Topography of the property:

Fairly flat w/ Parvin Butte in middle

- Any Significant Features of the property (steep slopes, water bodies, etc.):

Parvin Butte, Lost Creek

## APPROVAL CRITERIA

What criteria are applicable to this application? List the Chapter, Sections(s) and Subsection(s) from the Lane Code.

Base Zone: See Narrative  
(e.g. F2 (Impacted Forest Land), LC 16.211)

Approval Criteria: See Narrative  
(e.g. LC 16.211(5)(t) & (8))

Combining Zone(s): None  
(e.g. /BD (Beaches & Dunes, /FP (Floodplain))

## WRITTEN STATEMENT

Explain how your proposal and how it meets the approval criteria. Attach additional pages if necessary.

See  
Narrative

## **NARRATIVE IN SUPPORT OF SITE REVIEW FOR PARVIN BUTTE QUARRY**

This is an application for Site Review approval for a quarry operation at what is commonly known as Parvin Butte. The location is Assessor's Map 19-01-20, TL 3400. This application was triggered by the County's December 13, 2011 Notice of Failure to Comply, CA 10-0200. It alleged mining activity on nine days in November and December without Site Review approval, and it imposed a penalty. That penalty is under appeal.

This application is filed with the intention of bringing the use into compliance with the county code, if it is ultimately determined that a Site Review approval is needed for the existing and planned use. Part I below describes the basics of the use and existing approvals that are in hand. Part II below explains that the existing and proposed use does not require Site Review approval under the county code and requests confirmation of that. Part III addresses the merits of the Site Review standards.

### **I Summary of Facts Relevant to Existing and Proposed Use.**

- This is a 63-acre tract split-zoned QM-RCP/F-2 RCP. The QM portion, which is roughly 51.5 acres, is subject to the regulations in LC 16.216.
- Basic information on the site appears in the RLID detailed property summary. See Exhibit A.
- The site has a DOGAMI permit for surface mining. Permit No. 20-164 was issued on March 3, 2010. A copy appears as Exhibit B.
- The DOGAMI permit requires that the processing/excavation areas be setback 200 feet from the zoning line (which was the boundary line of old tax lot 2500). Condition 10 on the permit says: "[M]aintain a 200-foot undisturbed setback from the processing/excavation areas to the property line/DOGAMI permit boundary."
- A site plan was submitted with the DOGAMI Permit application. It shows the site and the plan of operation. A copy appears as Exhibit B.
- The existing access road to the quarry operation is an Oregon Properties road at the southeast corner of the site connecting to Rattlesnake Road.
- In order to minimize impacts on the surrounding residents, the owner plans to construct a new access driveway to the east, connecting to Parvin Road. This access drive would be

across F-2 land under the same ownership as the quarry site. It would use a bridge across Lost Creek, which is presently in the permitting process.

- In order to further minimize truck trips from the site and impacts on surrounding residents, the owners also plan to bring a railroad spur into the site from the north from the adjacent Union Pacific right of way. This will allow rock to be removed by rail.
- As does the current access driveway to the south, both the new access driveway and the railroad spur will necessarily penetrate the 200-foot buffer area to reach the operation area in the center of the site. The approximate location of the new driveway to the east and the rail spur to the north are shown on the proposed site plan.

## **II. The Proposed Use Does Not Require Site Review Approval**

For more than a year, the applicant, through its attorneys, have explained to the county that the proposed use does not require county site review approval. The applicant has articulated this position in emails, letters, and face-to-face discussions. See, for example, Lttrs from L. Gildea, Attorney, to S. Schulz, Planner (Oct. 25, 2010) and to S. Vorhes, County Counsel (Jan. 5, 2011), Exhibits C and D, respectively.

The County, for its part, has failed to explain in writing why it believes the code requires Site Review approval for the proposed use.

In the context of an application for a discretionary land use approval, the applicant is entitled to a determination as to whether the land use approval is required in the first place. See *Recovery House VI v. City of Eugene*, 150 Or App 382, 385-88, 946 P2d 342 (1997). The applicant requests that determination here.

Specifically, the applicant requests the determination that, as here, where the quarry operations, as distinct from the traffic to and from the area of operations, will be kept 200 feet distant from the zoning boundary, Site Review approval for a quarry operation is not required under the county code. The rationale for this requested determination is explained the January 5, 2011 Gildea letter to County Counsel. It is further explained below.

LC 16.216 sets the following parameters for mining in subsections (4) and (5):

(4) Permitted Buildings and Uses. In the Quarry and Mine Operations District, the following types of buildings and uses are permitted as hereafter specifically provided for by this section, subject to the provisions of the Quarry

and Mining Operations Reclamation Permit and additional Conditions and exceptions set forth in this Chapter:

- (a) Extracting and storing of minerals, including equipment and materials necessary to carry out these functions.
- (b) Plants for the processing of minerals from quarry and mine extraction operations.
- (c) Sale of products generated from the quarrying and mining operation.
- (d) Activities permitted or required as part of the reclamation process provided for in the Reclamation Plan.
- (e) Structures and buildings used in conjunction with the extracting and storing of minerals or related equipment as defined in LC 16.216(4)(a) above.

\* \* \* \*

(5) Site Review Required. Uses permitted by LC 16.216(4)(a), (b), (c), (d) and (e) above shall be subject to the provisions of LC 16.257 (Site Review).

The definitions in LC 16.216(3) include:

Quarry and Mine Extraction. All or any part of the process of removing mineral deposits exposed by any method, including open-pit mining operations, auger mining operations, shaft mining, the construction of borrow pits, processing of extracted minerals and exploration activities.

It is only the uses in (a) through (e) that trigger Site Review. That is: extracting minerals, storing of minerals and equipment and materials, processing plants, sale of product, reclamation activities, and structures and building used in conjunction with the above. None of these things is proposed to take place in the 200-foot buffer area around the perimeter of the site. In the 200-foot buffer area there will only be forest uses (as a buffer) and access routes to the operations area in the middle of the site.

The Site Review provisions of LC 16.257 include an exemption that applies when uses described in the zone, in subsections (a) through (e), will not be taking place within 200 feet of the QM zoning line. That exemption applies here.

LC 16.257, entitled “Site Review Procedures,” has seven numbered sections. Subsection (1) states the purpose. Subsection (2) identifies situations which require a site review permit. Subsection (2)(f) potentially applies here. “A Site Review Permit shall be required when : \* \* \* \* “(f) A zone in this chapter specifically requires a Site Review Permit for uses permitted outright or conditionally in said zone.” Subsection (3) then carves out some exceptions; it identifies a few situations where site review permits are not required. Section (3)(c) states that a

site review permit is not necessary when: “The proposed uses or improvements are located at least 200 feet from all exterior boundaries of the subject property.”

The proposed use gets the benefit of the carve-out in subsection (3)(c). Here, the proposed uses and improvements will be located at least 200 feet from all exterior boundaries of the subject property. That is a condition of the DOGAMI permit; that is the applicant’s proposal to the county.

We believe that Section (2)(f) is the provision that the County contends requires a site review permit because Section (5) of the QM-RCP zone requires a site review permit. But, Section (5) of the QM-RCP zone makes the site review requirement subject to all of the provisions of LC 16.257. It is, therefore, subject to LC 16.257(3)(c) as well. It gets the benefit of LC 16.257(3)(c). Under 16.257(3)(c), if the proposed uses are located at least 200 feet from the exterior QM boundaries of the property, a site review permit is not required. The proposed use is a mining operation. The site of the mining operation is more than 200 feet from all of the QM exterior boundaries. Hence, a site review permit is not required.

Lane County may also contend that the access roads to the mining site are themselves a part of the mining operation; and, since they go through the property lines, they are a part of the “mining activity” itself and are within 200 feet of exterior boundaries. We suggest this interpretation would be erroneous for two reasons. First, access roads are not within the definition of “Quarry and Mine Extraction” quoted above, and they are not mentioned in the list of uses in LC 16.216(4) that trigger Site Review. Second, such an interpretation would completely nullify Section (3)(c) because it would be impossible to ever have a site where the proposed use was at least 200 feet from all exterior boundaries because all sites have to be accessed. An interpretation that renders a code provision a nullity is disfavored. See *Bryant v. Clackamas County*, 56 Or App 442, 448, 643 P2d 649 (1982); *League of Women Voters v. Metro. Service Dist.*, 17 Or LUBA 949, 955, *aff’d* 99 Or App 333 (1989), *rev denied* 310 Or 70 (1990). Truck traffic on an access road, between the property boundary and the 200 foot setback, is not a mining activity.

The County should determine that the proposed use does not trigger the Site Review procedures of the code, and, therefore, this application is not necessary.

### **III. This Use would Meet the Site Review Standards**

Here we address the merits of the Site Review criteria in LC 16.257(4) and (5).

(4) Criteria for Site Review Evaluation. The following minimum criteria should be considered in evaluating Site Review Applications:

- (a) That the location, design, size, shape and arrangement of the uses and structures are sufficient for the proposal intent and are compatible with the surrounding vicinity.
- (b) That there is no unnecessary destruction of existing healthy trees or other major vegetation, and that due consideration is given to the preservation of distinctive historical or natural features.
- (c) That the quantity, location, height and materials of walls, fences, hedges, screen planting and landscape areas are such that they serve their intended purpose and have no undue adverse effect on existing or contemplated abutting land use.
- (d) That suitable planting of ground cover or other surfacing is provided to prevent erosion and reduce dust.
- (e) That the location, design and size of the uses are such that the residents or establishments to be accommodated will be adequately served by community facilities and services or by other facilities suitable for the intended uses.
- (f) That, based on anticipated traffic generation, adequate additional right-of-way, road improvements, and on-site vehicular, bicycle and pedestrian improvements connecting directly to off-site roads, paths and sidewalks must be provided by the development in order to promote traffic safety and reduce traffic congestion. Consideration shall be given to the need and feasibility of widening and improving abutting streets to specifications of LC Chapter 15, "Roads," and also to the necessity for such additional improvements as lighting, sidewalks, bicycle lane and path connections, and turn and deceleration/acceleration lanes. Improvements shall be consistent with access management, spacing standards, and other requirements of LC Chapter 15.
- (g) That there is a safe and efficient circulation pattern within the boundaries of the development. Consideration shall include the layout of the site with respect to the location and dimensions of vehicular, bicycle, and pedestrian entrances, exists, drives, walkways, buildings and other related facilities.
- (h) That there are adequate off street parking and loading/unloading facilities provided in a safe, efficient and pleasant manner. Consideration shall include the layout of the parking and loading/unloading facilities and their surfacing, lighting and landscaping.
- (i) That all signs and illumination are in scale and harmonious with the site and area.
- (j) That adequate methods are provided to ensure continued maintenance and normal replacement of facilities, landscaping and other improvements, etc. that are required by Site Review Permit.



(5) Conditions. Reasonable conditions may be established in connection with a Site Review Permit as deemed necessary to secure the purpose and requirements of this section. Guarantees, evidence, dedications or bonding may be required to ensure that such conditions will be met.

We address each of these standards in the sections below.

**LC 16.216(4)(a): That the location, design, size, shape and arrangement of the uses and structures are sufficient for the proposal intent and are compatible with the surrounding vicinity.**

The proposal intent is to quarry rock, and process rock as needed, for construction projects in the Pacific Northwest. Access to the Union Pacific rail facility is essential. Railroad right-of-way ballast is expected to be a major destination for this product. Note that the quarry was originally opened in the 1950s by the railroad for construction of the railroad. The owners also expect to ship rock to the Oregon Coast for construction projects, including for jetty reconstruction.

The use is compatible with the surrounding vicinity. Initially, there is a presumption of compatibility. This site has weathered the Goal 5 review process, and it has been placed on the inventory of significant sites, with a determination to limit the conflicts between the mining and the surrounding uses. It is anticipated that the surrounding uses will absorb some of the externalities of the mining operation. The question here is what level of impacts is OK – that is, what is compatible?

The applicant believes that the remoteness of the site ensures that the mining use will be compatible with the surrounding uses. Initially, all mining operations will be buffered by the 200-foot setback from the property line, as required by the DOGAMI permit. The buffer area is being reforested. The nearest dwellings are to the south. The attached aerial shows the closest dwelling is about 250 feet from the operation area.

**LC 16.216(4)(b): That there is no unnecessary destruction of existing healthy trees or other major vegetation, and that due consideration is given to the preservation of distinctive historical or natural features.**

No tree removal is proposed in connection with this application. The area was previously logged consistent with the Forest Practices Act. There are no distinctive historical or natural features in the area of the proposed operation.

**LC 16.216(4)(c): That the quantity, location, height and materials of walls, fences, hedges, screen planting and landscape areas are such that they serve their intended purpose and have no undue adverse effect on existing or contemplated abutting land use.**

The only proposed improvement in the scope of this standard is the 200-foot buffer area, which has been replanted, with the understanding that it will enhance the buffer area in the long run.

**LC 16.216(4)(d): That suitable planting of ground cover or other surfacing is provided to prevent erosion and reduce dust.**

This objective is met by the reforestation of the 200-foot buffer strip around the perimeter of the entire site.

**LC 16.216(4)(e): That the location, design and size of the uses are such that the residents or establishments to be accommodated will be adequately served by community facilities and services or by other facilities suitable for the intended uses.**

Rock material will leave this site by road and by rail. Initially, county roads will be reached by the access easement at the southeast corner of the site. Eventually, a more robust driveway will be constructed to the east, across Lost Creek, to access Parvin Road. In addition, a rail spur will be constructed into the operating area from the north boundary of the site.

**LC 16.216(4)(f): That, based on anticipated traffic generation, adequate additional right-of-way, road improvements, and on-site vehicular, bicycle and pedestrian improvements connecting directly to off-site roads, paths and sidewalks must be provided by the development in order to promote traffic safety and reduce traffic congestion.**

**Consideration shall be given to the need and feasibility of widening and improving abutting streets to specifications of LC Chapter 15, "Roads," and also to the necessity for such additional improvements as lighting, sidewalks, bicycle lane and path connections, and turn and deceleration/acceleration lanes. Improvements shall be consistent with access management, spacing standards, and other requirements of LC Chapter 15.**

The owners intend to work with the county to determine what road improvements, in the vicinity of the quarry, are needed to accommodate this proposed use in the long run. This most likely implicates the county road improvements on Parvin Road to the east of the site.

**LC 16.216(4)(g): That there is a safe and efficient circulation pattern within the boundaries of the development. Consideration shall include the layout of the site with respect to the location and dimensions of vehicular, bicycle, and pedestrian entrances, exists, drives, walkways, buildings and other related facilities.**

There is a single access point at present. As noted above, the owners plan to upgrade the access and circulation by adding a rail spur to the north and a more robust driveway access to the east to Parvin Road.

**LC 16.216(4)h): That there are adequate off street parking and loading/unloading facilities provided in a safe, efficient and pleasant manner. Consideration shall include the layout of the parking and loading/unloading facilities and their surfacing, lighting and landscaping.**

This site has adequate space, in the operations area in the interior (more than 200 feet from the perimeter) for parking and operation of all vehicles and equipment.

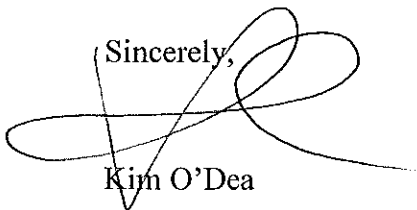
**LC 16.216(4)(i): That all signs and illumination are in scale and harmonious with the site and area.**

The owners do not anticipate signs of any appreciable magnitude. There will be no lighting at the perimeter of the property, other than security lighting. There may be lighting in the interior operations area, as needed for occasional operations in the dark.

**LC 16.216(5): Conditions. Reasonable conditions may be established in connection with a Site Review Permit as deemed necessary to secure the purpose and requirements of this section. Guarantees, evidence, dedications or bonding may be required to ensure that such conditions will be met.**

The applicant does not believe that conditions are necessary.

Sincerely,

A handwritten signature in black ink, appearing to read "Kim O'Dea", written over the word "Sincerely,".

#### LIST OF EXHIBITS

- A: RLID Detailed Property Summary for subject property
- B: DOGAMI Permit No. 20-164 (March 3, 2010) with Site Plan
- C: Ltrs from L. Gildea, Attorney, to S. Schulz, Planner (Oct. 25, 2010)
- D: Ltr from L. Gildea, Attorney, to S. Vorhes, County Counsel (Jan. 5, 2011)
- E: A&T map
- F: Aerial Photo

**Standard Property Search Results**

6 data row(s). Click the "Refine Search" button if property of interest is not found.

Current search parameters: Map = 190120; Lot = 03400;

Maplot	SIC	Account #	Site Address	Mail City	Zip	Owner	City Limits	UGB
19-01-20-00-03400		1836616				LEELYNN INC		
19-01-20-00-03400		1836616				WILEY MT INC		
19-01-20-00-03400		1836616				ATR LAND LLC		
19-01-20-00-03400		1836624				ATR LAND LLC		
19-01-20-00-03400		1836624				LEELYNN INC		
19-01-20-00-03400		1836624				WILEY MT INC		

Log Off

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**EXHIBIT A**

**Detailed Property Report**

Site Address N/A  
 Map & Taxlot# 19-01-20-00-03400  
 SIC N/A  
 Tax Account# 1836616

**Property Owner 1**  
 ATR LAND LLC  
 PO BOX 876  
 VENETA, OR 97487

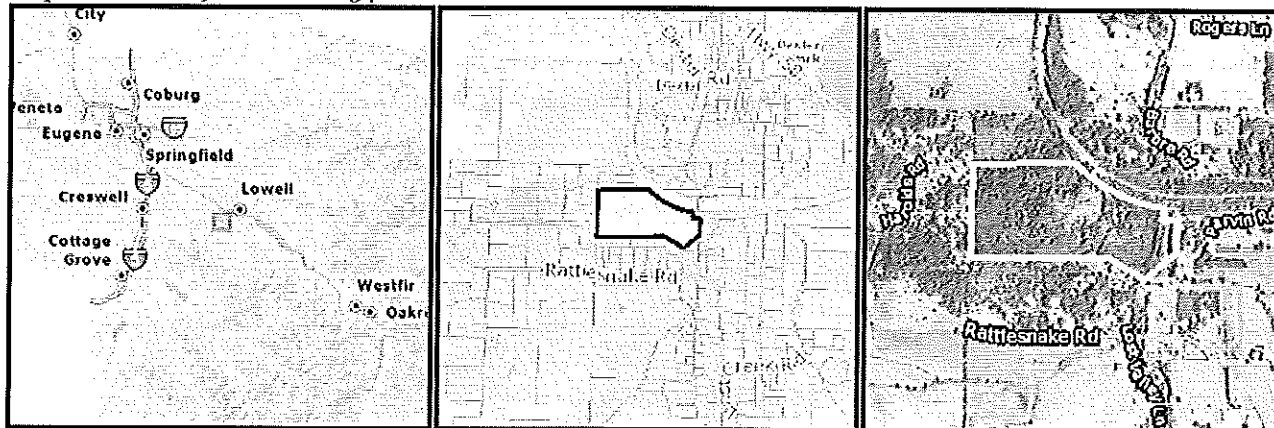
See Owner/Taxpayer section for additional owners

Approx. taxlot acreage 63.50  
 Tax account acreage 47.29

Code Split - Other land tax account(s) associated with this taxlot 1836624

**Maps**

Map & Taxlot # 19-01-20-00-03400

**Business Information****Improvements****Site Address Information****General Taxlot Characteristics**

■ **Geographic Coordinates**

X 4307700 Y 824635 (State Plane X,Y)  
 Latitude 43.9059 Longitude -122.8283

■ **Zoning**

Zoning Jurisdiction Lane County  
 Parent Zone QMQUARRY AND MINING OPERATIONS

■ **Land Use**

General Land Use  
 Code Description  
 T Timber

Detailed Land Use  
 Code Description  
 8310 Timberlands

**Taxlot Characteristics**

Incorporated City Limits	none
Urban Growth Boundary	none
Year Annexed	N/A
Annexation #	N/A
Approximate Taxlot Acreage	63.50
Approx Taxlot Sq Footage	2,766,060
2000 Census Tract	1700
2000 Census Block Group	4
Plan Designation	NATURAL RESOURCE : MINERAL
Eugene Neighborhood	N/A
Metro Area Nodal Dev Area	No
Historic Property Name	N/A
City Historic Landmark?	No
National Historical	No
Register?	

**Service Providers**

Fire Protection Provider	Dexter RFPD
Ambulance Provider	Springfield Dept of Fire & Life Safety
Ambulance District	EC
Ambulance Service Area	East/Central

LTD Service Area? Yes  
 LTD Ride Source? No  
 Soil Water Cons. Dist/Zone UPPER WILLAMETTE / o  
 Emerald People's Utility District N

### Environmental Data

#### FEMA Flood Hazard Zone(s)

##### Code Description

A Areas of 100-year flood, no base flood elevations determined.  
 X Areas determined to be outside of 500-year flood.

FIRM Map Number 41039C1690 F  
 Community Number data not available  
 Post-FIRM Date data not available  
 Panel Printed? Yes


#### Soils

Soil Map Unit#	Soil Type Description	% of Taxlot	Ag Class	1 Hydric
110	PITS	40%	0	No
113C	RITNER COBBLY SILTY CLAY LOAM, 2 TO 12 PERCENT SLOPES	16%	4	No
113E	RITNER COBBLY SILTY CLAY LOAM, 12 TO 30 PERCENT SLOPES	5%	6	No
113G	RITNER COBBLY SILTY CLAY LOAM, 30 TO 60 PERCENT SLOPES	11%	7	No
116G	ROCK OUTCROP-WITZEL COMPLEX, 10 TO 70 PERCENT SLOPES	23%	0	No
78	MCALPIN SILTY CLAY LOAM	5%	2	No

### Schools

	Code	Name
School District	1	PLEASANT HILL
Elementary School	500	Pleasant Hill
Middle School	502	Pleasant Hill
High School	502	Pleasant Hill

### Political Districts

 Numerous voting districts, such as City Council Wards, County Commissioner Districts, State Representative and State Senate Districts, and possibly others, are currently in a state of transition due to ongoing redistricting processes.

Election Precinct	100111	State Representative District	11
City Council Ward	N/A	State Representative	Phil Barnhart
City Councilor	N/A	State Senate District	6
County Commissioner District	5 (East)	State Senator	Lee Beyer
County Commissioner	Faye Stewart		
EWEB Commissioner	N/A		
LCC Board Zone	4		

### Liens

### Building Permits

### Land Use Applications

### Petitions

### Tax Statements (current and previous tax years)

ACCOUNT#: 1836616

View tax statement(s) for:

2011  
2010

### Owner/Taxpayer

**Owners**

No.	Owner	Address	City/State/Zip
1	ATR LAND LLC	PO BOX 876	VENETA, OR 97487
2	LEELYNN INC	PO BOX 518	CRESWELL, OR 97426
3	WILEY MT INC	PO BOX 518	CRESWELL, OR 97426

**Taxpayer**

Party Name	Address	City/State/Zip
ATR LAND LLC	PO BOX 876	VENETA, OR 97487

Data source: Lane County Assessment and Taxation

**Account Status****Status** Active Account Current Tax Year**Code Split** - Other land tax account(s) associated with this taxlot **1836624**

Account Status	none
Remarks	none
Special Assessment Program	N/A

Data source: Lane County Assessment and Taxation

**General Tax Account Information**

Tax Account Acreage	47.29
Fire Acres	N/A
Property Class	400 TRACT, VACANT
Statistical Class	N/A
Neighborhood Code	104502
Category	Land and Improvements

Data source: Lane County Assessment and Taxation

**Township-Range-Section / Subdivision Data**

Subdivision Type	N/A	Subdivision Name	N/A	Subdivision Number	N/A
Phase	N/A	Lot/Tract/Unit #	TL 03400	Recording Number	2009-060038

Data source: Lane County Assessment and Taxation

**Property Values & Taxes**

The values shown are the values certified in October unless a value change has been processed on the property. Value changes typically occur as a result of appeals, clerical errors and omitted property. The tax shown is the amount certified in October. This is the full amount of tax for the year indicated and does not include any discounts offered, payments made, interest owing or previous years owing. It also does not reflect any value changes.

Year	Real Market Value (RMV)		Total	Total Assessed Value	Tax
	Land	Improvement			
2011	\$208,627	\$0	\$208,627	\$167,635	\$1,889.70
2010	\$238,011	\$0	\$238,011	\$162,752	\$1,889.53
2009	\$0	\$0	\$0	\$0	\$0.00

Current Year Assessed Value \$167,635

Less Exemption Amount\* N/A

Taxable Value \$167,635

\* Frozen Assessed Value

Data source: Lane County Assessment and Taxation

**Tax Code Area & Taxing Districts**




Tax Code Area (Levy Code) for current tax year 00110

Taxing Districts for TCA 00110

DEXTER RURAL FIRE PROTECTION DISTRICT  
LANE COMMUNITY COLLEGE  
LANE COUNTY  
LANE EDUCATION SERVICE DISTRICT  
PLEASANT HILL SCHOOL DISTRICT 1

Data source: Lane County Assessment and Taxation

**Sales & Ownership Changes**

Sale Date	Sale Price	Doc #	Image	Analysis	Code	Multiple Accts?	Grantor(s)	Grantee(s)
10/23/2009	\$362,719	2009-60039		Y		Yes	ATR LAND LLC	LEELYNN INC
10/23/2009	\$0	2009-60146		8		Yes	LEELYNN INC & WILEY MT INC	ATR LAND LLC
10/14/2009	\$361,000	2009-60038		8		Yes	UNION PACIFIC RAILROAD CO	ATR LAND LLC

Data source: Lane County Assessment and Taxation

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**Detailed Property Report**

Site Address N/A  
 Map & Taxlot# 19-01-20-00-03400  
 SIC N/A  
 Tax Account# 1836624

Property Owner 1  
 ATR LAND LLC  
 PO BOX 876  
 VENETA, OR 97487

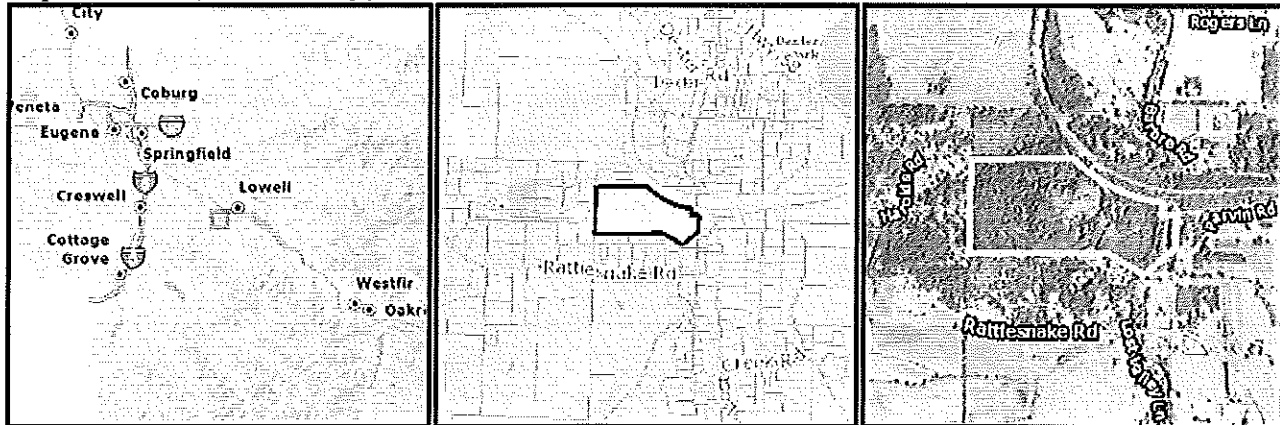
See Owner/Taxpayer section for additional owners

Approx. taxlot acreage 63.50  
 Tax account acreage 16.30

Code Split - Other land tax account(s) associated with this taxlot 1836616

**Maps**

Map & Taxlot # 19-01-20-00-03400

**Business Information****Improvements****Site Address Information****General Taxlot Characteristics**

■ **Geographic Coordinates**

X 4307700 Y 824635 (State Plane X,Y)  
 Latitude 43.9059 Longitude -122.8283

■ **Zoning**

Zoning Jurisdiction Lane County  
 Parent Zone QMQUARRY AND MINING OPERATIONS

■ **Land Use**

General Land Use

Code Description  
 T Timber

Detailed Land Use

Code Description  
 8310 Timberlands

**Taxlot Characteristics**

Incorporated City Limits	none
Urban Growth Boundary	none
Year Annexed	N/A
Annexation #	N/A
Approximate Taxlot Acreage	63.50
Approx Taxlot Sq Footage	2,766,060
2000 Census Tract	1700
2000 Census Block Group	4
Plan Designation	NATURAL RESOURCE : MINERAL
Eugene Neighborhood	N/A
Metro Area Nodal Dev Area	No
Historic Property Name	N/A
City Historic Landmark?	No
National Historical Register?	No

**Service Providers**

Fire Protection Provider	Dexter RFPD
Ambulance Provider	Springfield Dept of Fire & Life Safety
Ambulance District	EC
Ambulance Service Area	East/Central

LTD Service Area? Yes  
 LTD Ride Source? No  
 Soil Water Cons. Dist/Zone UPPER WILLAMETTE / o  
 Emerald People's Utility District N

### Environmental Data

#### FEMA Flood Hazard Zone(s)

##### Code Description

A Areas of 100-year flood, no base flood elevations determined.  
 X Areas determined to be outside of 500-year flood.

FIRM Map Number 41039C1690 F  
 Community Number data not available  
 Post-FIRM Date data not available  
 Panel Printed? Yes


#### Soils

Soil Map Unit#	Soil Type Description	% of Taxlot	Ag Class	Hydric
110	PITS	40%	0	No
113C	RITNER COBBLY SILTY CLAY LOAM, 2 TO 12 PERCENT SLOPES	16%	4	No
113E	RITNER COBBLY SILTY CLAY LOAM, 12 TO 30 PERCENT SLOPES	5%	6	No
113G	RITNER COBBLY SILTY CLAY LOAM, 30 TO 60 PERCENT SLOPES	11%	7	No
116G	ROCK OUTCROP-WITZEL COMPLEX, 10 TO 70 PERCENT SLOPES	23%	0	No
78	MCALPIN SILTY CLAY LOAM	5%	2	No

### Schools

	Code	Name
School District	1	PLEASANT HILL
Elementary School	500	Pleasant Hill
Middle School	502	Pleasant Hill
High School	502	Pleasant Hill

### Political Districts

 Numerous voting districts, such as City Council Wards, County Commissioner Districts, State Representative and State Senate Districts, and possibly others, are currently in a state of transition due to ongoing redistricting processes.

Election Precinct	100111	State Representative District	11
City Council Ward	N/A	State Representative	Phil Barnhart
City Councilor	N/A	State Senate District	6
County Commissioner District	5 (East)	State Senator	Lee Beyer
County Commissioner	Faye Stewart		
EWEB Commissioner	N/A		
LCC Board Zone	4		

### Liens

### Building Permits

### Land Use Applications

### Petitions

### Tax Statements (current and previous tax years)

ACCOUNT#: 1836624

View tax statement(s) for:

2011  
2010

### Owner/Taxpayer

**Owners**

No.	Owner	Address	City/State/Zip
1	ATR LAND LLC	PO BOX 876	VENETA, OR 97487
2	LEELYNN INC	PO BOX 518	CRESWELL, OR 97426
3	WILEY MT INC	PO BOX 518	CRESWELL, OR 97426

**Taxpayer**

Party Name	Address	City/State/Zip
ATR LAND LLC	PO BOX 876	VENETA, OR 97487

Data source: Lane County Assessment and Taxation

**Account Status****Status** Active Account Current Tax Year**Code Split** - Other land tax account(s) associated with this taxlot **1836616**

Account Status	none
Remarks	none
Special Assessment Program	N/A

Data source: Lane County Assessment and Taxation

**General Tax Account Information**

Tax Account Acreage	16.30
Fire Acres	N/A
Property Class	400 TRACT, VACANT
Statistical Class	N/A
Neighborhood Code	104502
Category	Land and Improvements

Data source: Lane County Assessment and Taxation

**Township-Range-Section / Subdivision Data**

Subdivision Type	N/A	Subdivision Name	N/A	Subdivision Number	N/A
Phase	N/A	Lot/Tract/Unit #	TL 03400	Recording Number	2009-060038

Data source: Lane County Assessment and Taxation

**Property Values & Taxes**

The values shown are the values certified in October unless a value change has been processed on the property. Value changes typically occur as a result of appeals, clerical errors and omitted property. The tax shown is the amount certified in October. This is the full amount of tax for the year indicated and does not include any discounts offered, payments made, interest owing or previous years owing. It also does not reflect any value changes.

Year	Real Market Value (RMV)		Total	Total Assessed Value	Tax
	Land	Improvement			
2011	\$89,500	\$0	\$89,500	\$71,915	\$ 810.68
2010	\$102,106	\$0	\$102,106	\$69,820	\$ 810.60
2009	\$0	\$0	\$0	\$0	\$ 0.00

Current Year Assessed Value	\$71,915
Less Exemption Amount*	N/A
Taxable Value	\$71,915

\* Frozen Assessed Value

Data source: Lane County Assessment and Taxation

**Tax Code Area & Taxing Districts**




Tax Code Area (Levy Code) for current tax year 00116

Taxing Districts for TCA 00116

DEXTER RURAL FIRE PROTECTION DISTRICT  
 EMERALD PEOPLES UTILITY DISTRICT  
 LANE COMMUNITY COLLEGE  
 LANE COUNTY  
 LANE EDUCATION SERVICE DISTRICT  
 PLEASANT HILL SCHOOL DISTRICT 1

Data source: Lane County Assessment and Taxation

**Sales & Ownership Changes**

Sale Date	Sale Price	Doc #	Image Analysis Code	Multiple Accts?	Grantor(s)	Grantee(s)
10/23/2009	\$362,719	2009-60039	 <u>data not available</u>	Yes	ATR LAND LLC	WILEY MT INC
10/23/2009	\$0	2009-60146	 <u>data not available</u>	Yes	LEELYNN INC& WILEY MT INC	ATR LAND LLC
10/14/2009	\$361,000	2009-60038	 <u>data not available</u>	Yes	UNION PACIFIC RAILROAD CO	ATR LAND LLC

Data source: Lane County Assessment and Taxation

Generated by Law Office of Bill Kloos, PC on Dec 21, 2011 at 11:15am using RLID, <http://www.rlid.org/>

DOGAMI - MINED LAND RECLAMATION

229 BROADM.BIN STREET SW

ALBANY, OR 97321-2246

OPERATING PERMIT APPLICATION - PAGE 1

Under ORS 517.750-990

**APPLICANT**

List the name, address, etc. for the person or company the permit is to be issued to. Reclamation security must also be provided in this same name.

If the applicant is a business - the name must be registered with the Secretary of State's office to do business in Oregon.

Name Lost Creek Rock Products, LLC  
Mailing Address P.O. Box 518  
Mailing Address \_\_\_\_\_  
City / State / Zip Creswell, OR 97426  
Phone (541) 895-8788  
Fax (541) 895-8787  
E-mail maggie mcdougalbros.com

**LANDOWNER(S)**

Is the applicant the landowner of this property? ☐ Yes ☒ No  
If no, list below. (Attach a separate piece of paper if necessary.)

Name Leelynn, Inc., Wiley Mt., Inc., ATR Land, LLC  
Mailing Address P.O. Box 518  
Mailing Address \_\_\_\_\_  
City / State / Zip Creswell, OR 97426  
Phone (541) 895-8788  
Fax (541) 895-8787  
E-mail maggie mcdougalbros.com

**CONTACT PERSON**

List the contact person if different from the applicant.

Name Phil Velie/Larry Gildea  
Phone (541) 895-8788  
Other Phone ( )  
E-mail maggie mcdougalbros.com

**ACREAGE INFORMATION**

What is the total number of acres to be covered under this permit?  
+ 51.5

How many acres are currently affected by mining?  
0

How many acres are to be affected by mining during the next 12 months?  
10

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DEC - 8 2009

M.L.P.D.

CONTINUED ON REVERSE

**SITE LOCATION**

County Lane  
Section(s) 20  
Township(s) 19 S  
Range(s) 1  
Tax Lot(s) Railroad land/exempt

Is this site located within 1/4 of a mile of a state or federal wild or scenic river corridor? ☐ Yes ☒ No

Is this site located within the limits of a city? ☐ Yes ☒ No

If no, complete the following:

Site is 2 miles ( N / S / E / W ) from  
Dexter (nearest community).

Is the site address different from the applicant's address? ☒ Yes  
☐ No

If yes, list site address:

Site Name Lost Creek

**OPERATION INFORMATION**

Date mining to begin 3/1/10

Check all mining methods and other on-site activities that apply:

☒ Drill & Blast ☒ Rip & Load  
☒ Shovel, loader or scraper ☒ Stockpiling removal  
☒ Crushing ☒ Screening  
☒ Washing  
☐ Other \_\_\_\_\_

Has this site been permitted by DOGAMI in the past? ☐ Yes ☒ No  
If yes, provide DOGAMI ID number, if available, or permittee's name.

**LAND-USE**

If land-use approval has not been obtained, it may take up to 165 days after a complete land-use application is filed with the appropriate land-use agency before we can issue our permit.

Has land-use authorization been obtained? ☒ Yes ☐ No

If yes, provide documentation (copy of CUP, etc.).

If no, explain:

Railroad land/exempt

See zoning code - is

zoned QM

20-0164  
EXHIBIT B

**MUCH OF THE INFORMATION REQUESTED CAN BE EXPLAINED ON THE MINE PLAN MAP.** See enclosure Map or Aerial Photo Requirements.

### 1. PRE-MINE CONDITIONS

- a) Current land use and zoning QM  
b) Average depth of topsoil 0-2'  
c) Type and density of vegetation Douglas fir, blackberries, poison oak  
d) Are there any springs, seeps, intermittent or perennial streams on or near the site? ☐ yes ☒ no  
If yes, list here and locate on mine plan map.

- e) Has a wetland delineation been completed? ☐ yes ☒ no  
If yes, attach report.  
f) Has a landslide investigation been completed on this property? ☐ yes ☒ no  
If yes, attach report.

### 2. POST-MINING LAND USE

- a) What is the planned post-mining beneficial use of the permit area?  
☐ Agriculture  
☒ Range/Open Space  
☒ Forestry Reforestation in N/W/S  
☐ Housing/Construction benched areas and floor  
☐ Wildlife/Wetland  
☐ Recreation  
☐ Other

*The post-mining use must be compatible with the local comprehensive plan or have specific land-use approval. For significant aggregate sites zoned for mining, local government must determine the post-mining land use.*

### 3. RECLAMATION TIMING

- a) How many days after mining is completed will reclamation begin? At completion of mining operations OR  
b) If reclamation will be concurrent with mining, explain the procedure for concurrent reclamation.

### 4. OPERATING PLAN

- a) Mining method(s) to be employed (mark all that apply):  
☐ single bench ☐ multiple bench ☐ pond excavation  
☐ placer mine ☐ side hill cut ☒ hill top removal  
☐ other:

- b) Equipment to be used for mining:  
Normal mining equipment including excavators, bulldozers, dump trucks and crushers

- c) Will there be on-site processing? ☒ yes ☐ no  
If yes, check type of processing:  
☐ wash water contained in a closed system source of water:  
☐ wash water discharged off site  
☒ dry processing  
☐ other:

- d) Will blasting be employed? ☒ yes ☐ no  
e) Distance to closest structure not owned by permittee.

- f) Disposition of removed vegetation.  
Strip and burn. Timber to be removed under Forest Practices Act.

- g) Soil types which will be disturbed by mining, processing, or reclamation.

- h) Average soil salvage depth 0-2'  
i) Overburden removal depth 0-5'

- j) Will soil, overburden, rock waste or crusher reject dumps or stockpiles be created during mining? ☒ yes ☐ no  
If yes, list the estimated volume of each at the end of this form and locate on a mine plan map.

*Additional information may be required for large dumps or those located on steep terrain.*

- k) Will this plan require excavating across any property lines? ☐ yes ☒ no

- l) How and where will soil or subsoils be stored for reclamation? Locate storage areas on mine plan map. Located in berm as shown on attached mine plan map.

- m) What measures will be taken to reduce compaction and prevent water and wind erosion of the topsoil stockpiles and when will they be implemented?  
Revegetation will occur with native grasses.

- n) What will be the minimum property line setback:  
for the excavation 200'  
for processing or storage 200'

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DEC - 8 2009

MLRP

20-0164

## 7. VISUAL AND NOISE SCREENING

Screening can be very effectively employed to isolate sites from public notice and to minimize noise from operations.

- a) Does a natural landform or vegetative screen currently exist along the permit boundary? ☒ yes ☐ no  
If yes, what screen width will be maintained during mining?  
200'

- b) Will a berm and/or vegetation be established to develop a visual screen for the operation? ☐ yes ☒ no  
If yes, describe the height and width of the berms and/or the type and density of vegetation; show location on mine map.

(Crushed rock stockpiles, although not permanent, can also be used to reduce noise from the operation.)

## 8. EQUIPMENT AND STRUCTURES REMOVED

- a) Upon final reclamation, will all structures, visual berms, equipment, and refuse be removed? ☐ yes ☒ no  
If no, explain what will be left.  
berm will be removed and leveled

## 9. RECLAMATION TECHNIQUES

- a) What will be done with oversized rock not used during mining?  
removed and crushed

- b) What will be the average depth of soil replaced on the area to be reclaimed?  
12-24"

*If less than 12" of topsoil is available, a substitute material may be required.*

- c) Will additional material be utilized as a soil substitute to complete the revegetation? ☒ yes ☐ no  
If yes, specify type(s), amount(s), and source(s).  
fine and rejected materials  
will be used

- d) Will any waste products, such as tailings, crusher rejects, etc., be generated during mining? ☒ yes ☐ no  
If yes, what will be done with them?  
fine and rejected materials  
will be used

- e) How will processing and stockpile sites be reclaimed? If they are to be revegetated, explain procedures which will be employed to decompact areas prior to topsoiling/seeding.  
decompacted soils and respread

## 10. REVEGETATION TECHNIQUES

- a) Species to be seeded/planted by type and amount.  
Native grasses - 11 lbs/acre  
Douglas fir - 12' trees on center  
300 per acre

- b) Describe method and time of year for planned planting.  
broadcast seeding, spring or fall

- c) List fertilizers and lime to be used (include amount).  
if needed

- d) List type and amount of mulch or other erosion control techniques such as erosion netting.  
straw on sloped areas with  
broadcast seed

*Vegetative survival comparable to the density of original ground cover will normally be considered acceptable.*

## 11. RECLAMATION PROCEDURES - POST-MINE DRAINAGE CONTROL AND RECONSTRUCTION

- a) During reclamation, will stream channel and/or bank stabilization and rehabilitation be necessary? ☐ yes ☒ no  
If yes, attach plans. ☐ n/a

*A Division of State Lands' permit is required for relocation of all perennial and some intermittent water courses.*

**DSL**

- b) How will surface water runoff and erosion be controlled upon completion of mining? Describe and list structures that will be used.

V ditches and settling ponds  
containing water on site

## 12. RECLAMATION PROCEDURES - IMPOUNDMENTS & POND DECOMMISSIONING

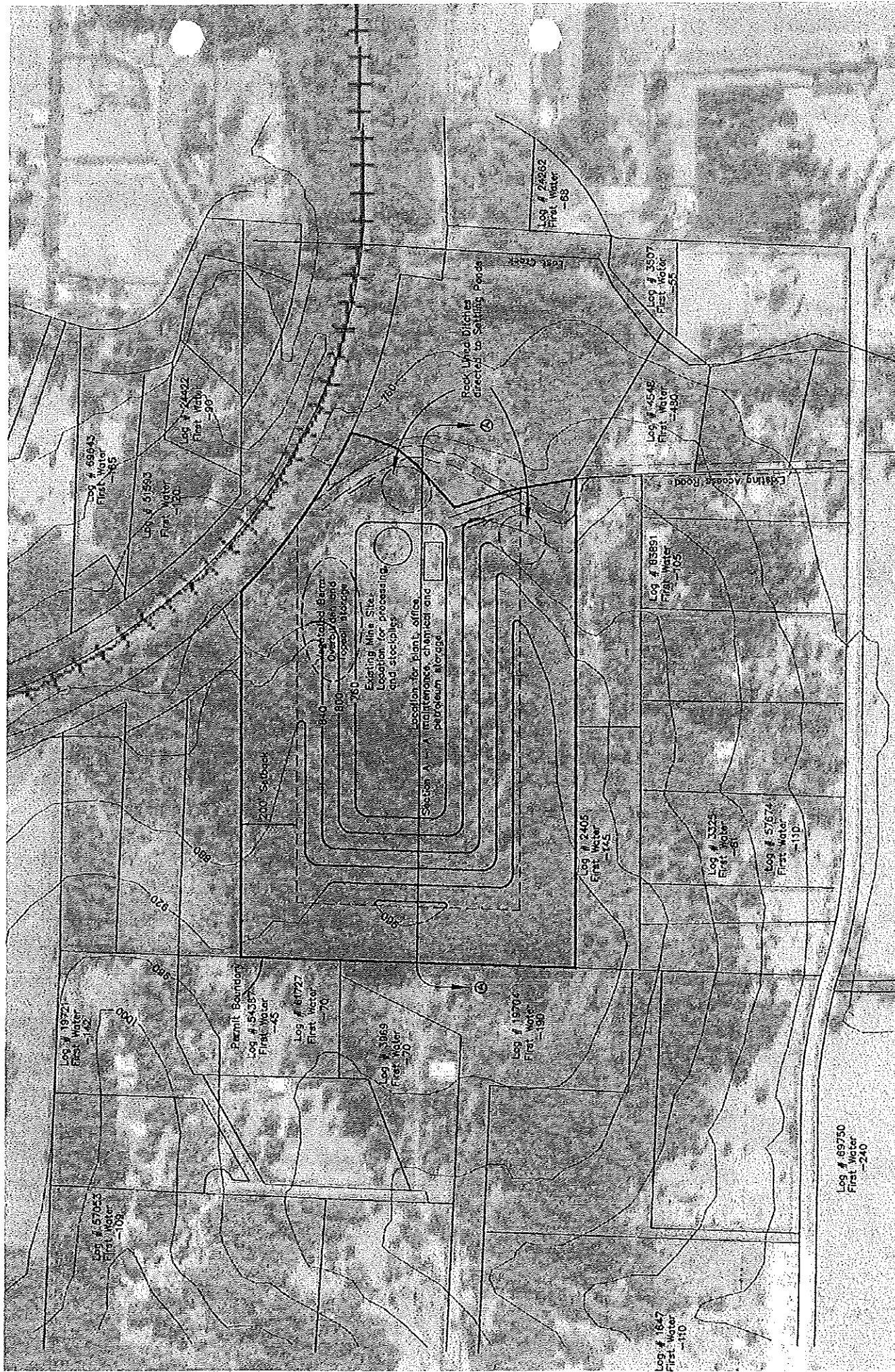
- a) Will dewatering be required? ☐ yes ☒ no  
b) Will it be necessary to backfill a water filled excavation pit or pond? ☐ yes ☒ no  
c) How will settling ponds be stabilized and revegetated?  
revegetate with grasses

- d) How will quality of imported backfill be monitored to protect groundwater quality?

N/A

*Monitoring may be required to ensure groundwater protection.*







LARRY O. GILDEA

Attorney at Law

REC'D OCT 26 2010

Larry O. Gildea

324 East 12th Avenue, Suite 2  
Eugene, Oregon 97401-3274

Wendy Mechling  
Legal Assistant

Telephone (541) 342-1771  
Facsimile (541) 895-8787

October 25, 2010

VIA FACSIMILE

541-682-3947

4 page(s)  
and first class mail

FAXED  
11:20AM

Stephanie Schulz  
Land Management Division  
Public Works Department  
125 East 8th Avenue  
Eugene, OR 97401

Re: Your File CA 10-0200  
TRS 19 01 20, Tax Lot 3400

Dear Stephanie:

This letter confirms the information I gave you in our telephone conversation of October 22nd.

I represent the owners of Tax Lot 3400. This letter defines their position with reference to the issue raised in Jane Burgess's letter of October 20, 2010.

The DOGAMI operating permit boundary does extend to the property line. However, the operation itself is at least 200 feet from the nearest property line.

The DOGAMI operating permit contains this provision: "The Permittee must ... maintain a 200-foot undisturbed setback from the processing/excavation areas to the property line/DOGAMI permit boundary." (page 2, provision 10)

Under the DOGAMI permit, our right to conduct operations is limited to an area that is at least 200 feet from the property line and DOGAMI permit boundary.

EXHIBIT C

Stephanie Schulz  
October 25, 2010  
Page 2 of 2 Page(s)

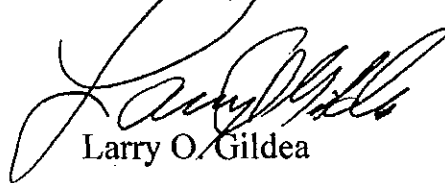
Lane Code 16.257(3) provides that it is not necessary to require a site permit when "(c) the proposed uses or improvements are located at least 200 feet from all exterior boundaries of the subject property."

Enclosed is a copy of the DOGAMI operating permit. I have highlighted the provision on the second page that pertains to our discussions.

I think I also mentioned that the owners are not conducting any excavation or mining operations at this time. They have removed some timber and hauled it away, but they do want to commence operations within the next few months. Please let me know if you see any problems.

Thank you.

Yours truly,

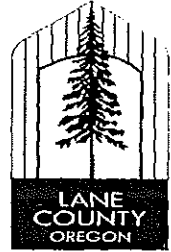
A handwritten signature in black ink, appearing to read "Larry O. Gildea", written over a horizontal line.

Larry O. Gildea

LOG:mt  
Enclosure

November 23, 2010

Larry O. Gildea  
Attorney at Law  
324 East 12<sup>th</sup> Avenue, Suite 2  
Eugene, OR 97401-3274



LAND MANAGEMENT DIVISION  
[http://www.LaneCounty.org/PW\\_LMD/](http://www.LaneCounty.org/PW_LMD/)

RE: DOGAMI Permit 20-0164 -- Parvin Butte Quarry (Site Name: Lost Creek)  
T19S, R01W, Section 20, tax lot 3400 51.5 acres

Dear Mr. Gildea,

Lane County received your letter in response to the Request for Voluntary Correction issued on October 20, 2010, defining the position of the property owners in reference to the submittal of a Site Review application in conjunction with DOGAMI permit 20-164. We also heard from Bill Kloos on behalf of his clients. The DOGAMI permit boundary for the Quarry operation is the property line as shown on the General site location map, and follows the entire portion of tax lot 3400 that is zoned QM-RCP, Quarry and Mine Operations Zone. Based on that, a Lane Code Site Review permit is required under Lane Code 16.257(2)(f), since the QM-RCP Zone specifically requires a Site Review permit for the type of mining operation permitted outright in that zone. The web survey soil map included with the DOGAMI permit application shows roads that appear to be part of the proposed mining operation and would also be appropriately addressed and included in the Site Review application.

If no mining has occurred yet, be advised a Site Review application must be approved and final before any mining activity begins. If some mining has occurred, no further activity shall occur without the Site Review application being approved and final. I have enclosed copies of a General Land Use application form for the Site Review permit application. The current fee for a Site Review permit is \$7,780.00. Lane Code is available online at <http://www.lanecounty.org/LaneCode/default.htm>. You are also welcome to come in to our office between 9:00 am and 1:00 pm to speak with the Planner on Duty regarding the application or contact Stephanie Schulz at 541-682-3958.

Please don't hesitate to contact me if you have any questions.

Sincerely,

Jane Burgess  
Compliance Officer  
(541) 682-3724  
[jane.burgess@co.lane.or.us](mailto:jane.burgess@co.lane.or.us)

cc:

LeeLynn Inc.  
Wiley Mt. Inc.  
ATR Land LLC  
Robert Huston, DOGAMI  
Don Nickell, Consultant  
Bill Kloos, Attorney at Law

Oregon Dept. of Geology & Mineral Industries  
Mineral Land Regulation & Reclamation Program  
229 Broadalbin St. SW  
Albany OR 97321-2246  
(541) 967-2039

**OPERATING PERMIT -- New**  
**ISSUED SUBJECT TO ANY LISTED CONDITIONS**

|||||

Lost Creek Rock Products LLC  
PO Box 518  
Creswell OR 97426

ID No.: 20-0164  
County: Lane  
Section: 20  
Twp: 19S  
Range: 1  
Tax Lot: 3400  
Site Name: Lost Creek

This permit shall be in effect, unless revoked or suspended for cause, from the date of issuance and shall remain in effect so long thereafter as the Permittee pays the annual fee to renew the permit, complies with the provisions of ORS 517.750 through 517.955 as applicable, the Rules as promulgated to administer the Oregon Mined Land Reclamation Act, the approved reclamation plan, and any conditions attached to this permit, and maintains a performance bond as required by the Act.

Issuance of this permit is not a finding of compliance with state-wide planning goals or the acknowledged comprehensive plan. The applicant must receive land-use approval from local government before using this permit.

NOTE: Reclamation plans may be modified per ORS 517.830(4) and OAR 632-(30) and (35)-035.

**CONDITIONS:** *(Conditions may be appealed per OAR 632-30-030. If an appeal is made, this permit is invalid until the condition(s) appealed is/are resolved and the permit reissued.)*

The Permittee must:

1. survey and clearly mark the 51.5-acre permit boundary and the 200-foot setback to that boundary. The setback must be visible to all equipment operators.
2. salvage all available soil material and retain on-site for final reclamation. Soil stockpiles and berms must be seeded in a cover crop by October 1 of each year until vegetation is established.
3. ensure that all final excavation slopes are 1.5(H):1(V) or flatter.

**SEE PAGE TWO FOR ADDITIONAL CONDITIONS**

Issued 3-3-10, 2010

*E. Frank Schulte* / for  
Gary W. Lynch  
Assistant Director

**RENEWAL IS REQUIRED BY DECEMBER 31, 2010**

c: Lane County Planning Department

The Permittee must:

4. ensure that all final fill slopes are 2(H):1(V) or flatter.
5. submit a post-mine drainage plan for review and approval prior to creating any final fill slopes greater than 100 feet in length that are sloped at, or steeper than, 2(H):1(V).
6. obtain a DEQ NPDES 1200-A permit prior to any discharge of pit water or stormwater beyond the permit boundary.
7. at final reclamation, rip the quarry floor prior to spreading a minimum of 2 feet of soil and/or soil substitute material over the quarry floor, highwall benches, and the processing/stockpile areas.
8. replant Douglas-fir on 12-foot centers on the quarry floor, and reseed all other areas not planted back to trees with a native grass seed mix, including the horizontal benches on the highwall.
9. amend this Operating Permit prior to conducting mine dewatering.
10. maintain a 200-foot undisturbed setback from the processing/excavation areas to the property line/DOGAMI permit boundary.
11. agree that if mining operations disturb any area outside of the permit boundary, or area designated for active mining in the reclamation plan, including, but not limited to, disturbances caused by landslide, erosion, or fly-rock; the operator must restore the disturbed area to a condition that is comparable to what it was prior to the disturbance. Further, if areas outside of the permit boundary or outside of the area proposed for active mining in the reclamation plan are disturbed, DOGAMI may increase the amount of the required financial security to cover the cost of such restoration.

# DOGAMI - MINED LAND RECLAMATION

229 BROADALBIN STREET SW  
ALBANY, OR 97321-2246

## OPERATING PERMIT APPLICATION - PAGE 1

Under ORS 517.750-990

### APPLICANT

List the name, address, etc. for the person or company the permit is to be issued to. Reclamation security must also be provided in this same name.  
If the applicant is a business - the name must be registered with the Secretary of State's office to do business in Oregon.

Name Lost Creek Rock Products, LLC  
Mailing Address P.O. Box 518  
Mailing Address \_\_\_\_\_  
City / State / Zip Creswell, OR 97426  
Phone (541) 895-8788  
Fax (541) 895-8787  
E-mail maggie mcdougalbros.com

### LANDOWNER(S)

Is the applicant the landowner of this property? ☐ Yes ☒ No  
If no, list below. (Attach a separate piece of paper if necessary.)

Name LeeLynn, Inc., Wiley Mt., Inc., ATR Land, LLC  
Mailing Address P.O. Box 518  
Mailing Address \_\_\_\_\_  
City / State / Zip Creswell, OR 97426  
Phone (541) 895-8788  
Fax (541) 895-8787  
E-mail maggie mcdougalbros.com

### CONTACT PERSON

List the contact person if different from the applicant.

Name Phil Velie/Larry Gildea  
Phone (541) 895-8788  
Other Phone ( )  
E-mail maggie mcdougalbros.com

### ACREAGE INFORMATION

What is the total number of acres to be covered under this permit?  
+ 51.5

How many acres are currently affected by mining?  
0

How many acres are to be affected by mining during the next 12 months?  
10

### SITE LOCATION

County Lane  
Section(s) 20  
Township(s) 19 S  
Range(s) 1  
Tax Lot(s) Railroad land/exempt

Is this site located within 1/4 of a mile of a state or federal wild or scenic river corridor? ☐ Yes ☒ No

Is this site located within the limits of a city? ☐ Yes ☒ No  
If no, complete the following:

Site is 2 miles (N / S / E / W) from  
Dexter (nearest community).

Is the site address different from the applicant's address? ☒ Yes ☐ No

If yes, list site address:

Site Name Lost Creek

### OPERATION INFORMATION

Date mining to begin 3/1/10

Check all mining methods and other on-site activities that apply:

☒ Drill & Blast ☒ Rip & Load  
☒ Shovel, loader or scraper ☒ Stockpiling removal  
☒ Crushing ☒ Screening  
☒ Washing  
☐ Other \_\_\_\_\_

Has this site been permitted by DOGAMI in the past? ☐ Yes ☒ No  
If yes, provide DOGAMI ID number, if available, or permittee's name.

### LAND-USE

If land-use approval has not been obtained, it may take up to 165 days after a complete land-use application is filed with the appropriate land-use agency before we can issue our permit.

Has land-use authorization been obtained? ☒ Yes ☐ No

If yes, provide documentation (copy of CUP, etc.).

If no, explain:

Railroad land/exempt  
See zoning code - is  
zoned QM

CONTINUED ON REVERSE

DOGAMI - MINED LAND RECLAMATION  
229 BROADALBIN STREET SW  
ALBANY, OR 97321-2246

OPERATING PERMIT APPLICATION - PAGE 2  
Under ORS 517.750-990

RESERVES & PRODUCTION *Reserves and production figures shall not be circulated outside of DOGAMI. Confidential per ORS 517.900.*

What is the estimated total quantity (tons) of mineral available (reserves)? 50 million ton

In the previous 12 months, how many tons were excavated? none

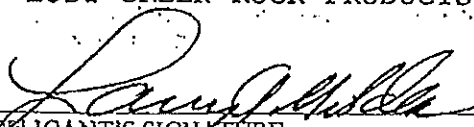
During the ensuing 12 months, what is the estimated number of tons to be excavated? 100,000 ton

COMMODITY

Please indicate the PRIMARY commodity for this site:

Aggregate		Metals	Industrial Minerals		Gemstones/Lapidary/ Mineral Specimens
cinder	andesite	chromium	perlite	zeolite	agate
pumice	basalt	gold-placer	limestone/marble	benlomite	jasper/picture jasper
borrow/fill/topsoil	blueschist	gold-lode	soapstone	clay-brick	thunder eggs
bar run	decomposed granite	copper	emery	clay-other uses	sunstone
dredge tailings	granite	silver	silica sand	quartz/silica/cristobalite	zeolite
sand & gravel	sandstone	nickel		diatomaceous earth	obsidian
	serpentine	mercury		building/decorative stone	opal
	shale				
PRIMARY use: construction fill					
concrete aggregate asphalt aggregate					
base rock aggregate rip rap					

LOST CREEK ROCK PRODUCTS, LLC

  
APPLICANT'S SIGNATURE

Authorized Agent

TITLE

Larry O. Gildea

PRINT OR TYPE NAME OF PERSON SIGNING

December 3, 2009

DATE

# Operating and Reclamation Plan

For sites in sensitive locations, additional information may be required.  
If more space is needed, attach additional sheets or use the blank sheet provided at the end of this form.

Oregon Department of Geology and Mineral Industries  
Mined Land Reclamation Program  
229 Broadalbin Street SW  
Albany, OR 97321-2246  
(541) 967-2039  
Fax (541) 967-2075



**MUCH OF THE INFORMATION REQUESTED CAN BE EXPLAINED ON THE MINE PLAN MAP.** See enclosure Map or Aerial Photo Requirements.

### 1. PRE-MINE CONDITIONS

- a) Current land use and zoning QM
- b) Average depth of topsoil 0-2'
- c) Type and density of vegetation Douglas fir, blackberries, poison oak
- d) Are there any springs, seeps, intermittent or perennial streams on or near the site? ☐ yes ☒ no  
If yes, list here and locate on mine plan map.

- e) Has a wetland delineation been completed? ☐ yes ☒ no  
If yes, attach report.
- f) Has a landslide investigation been completed on this property? ☐ yes ☒ no  
If yes, attach report.

### 2. POST-MINING LAND USE

- a) What is the planned post-mining beneficial use of the permit area?
- ☐ Agriculture
- ☒ Range/Open Space
- ☒ Forestry Reforestation in N/W/S benched areas and floor.
- ☐ Housing/Construction
- ☐ Wildlife/Wetland
- ☐ Recreation
- ☐ Other

*The post-mining use must be compatible with the local comprehensive plan or have specific land-use approval. For significant aggregate sites zoned for mining, local government must determine the post-mining land use.*

### 3. RECLAMATION TIMING

- a) How many days after mining is completed will reclamation begin? At completion of mining operations OR
- b) If reclamation will be concurrent with mining, explain the procedure for concurrent reclamation:

### 4. OPERATING PLAN

- a) Mining method(s) to be employed (mark all that apply)
- ☐ single bench ☐ multiple bench ☐ pond excavation
- ☐ placer mine ☐ side hill cut ☒ hill top removal
- ☐ other:

- b) Equipment to be used for mining:  
Normal mining equipment including excavators, bulldozers, dump truck and crushers
- c) Will there be on-site processing? ☒ yes ☐ no  
If yes, check type of processing:  
☐ wash water contained in a closed system source of water: \_\_\_\_\_  
☐ wash water discharged off site  
☒ dry processing  
☐ other: \_\_\_\_\_
- d) Will blasting be employed? ☒ yes ☐ no
- e) Distance to closest structure not owned by permittee.

- f) Disposition of removed vegetation.  
Strip and burn. Timber to be removed under Forest Practices Act.
- g) Soil types which will be disturbed by mining, processing, or reclamation.

- h) Average soil salvage depth 0-2'
- i) Overburden removal depth 0-5'
- j) Will soil, overburden, rock waste or crusher reject dumps or stockpiles be created during mining? ☒ yes ☐ no  
If yes, list the estimated volume of each at the end of this form and locate on a mine plan map.

*Additional information may be required for large dumps or those located on steep terrain.*

- k) Will this plan require excavating across any property lines? ☐ yes ☒ no
- l) How and where will soil or subsoils be stored for reclamation? Locate storage areas on mine plan map. Located in berm as shown on attached mine plan map.
- m) What measures will be taken to reduce compaction and prevent water and wind erosion of the topsoil stockpiles and when will they be implemented?  
Revegetation will occur with native grasses.
- n) What will be the minimum property line setback:  
for the excavation 200'  
for processing or storage 200'

## 5. WATER RESOURCE PROTECTION

- a) Will mining occur below groundwater level? ... ☐ yes ☒ no  
b) Will mine site dewatering be necessary? ..... ☐ yes ☒ no  
If yes, explain procedure and estimated depth to which water will be drawn down inside of the mine and where water will be discharged.

**WRD**

*A permit may be required from the Water Resources Department for dewatering activity.*

- c) Will process water be contained on site? N/A ☐ yes ☐ no  
d) Will storm water be contained on site? ..... ☒ yes ☐ no  
e) Will a pond(s) be used to contain water? ..... ☒ yes ☐ no  
Explain containment procedures.

All stormwater, including roadway water, will be collected through rock-lined ditches to on-site settling ponds.

If the answer to c) or d) is no, please explain discharge procedures.

*A permit from the Department of Environmental Quality may be required for off-site discharges and is required for any discharge into public waters, wetlands, streams or lakes. Contact DOGAMI for these permits.*

**DEQ**

- f) Will any drainages/streams be relocated? ..... ☐ yes ☒ no  
If yes, complete Section 11.  
g) What will be the minimum undisturbed setback(s) of the operation from all stream(s) or drainage(s)? N/A

*List the name of stream(s) or drainage(s) and setback from each at the end of this form and locate on a mine plan map.*

- h) How will the buffer(s) be identified and protected during mining and reclamation?  
N/A

- i) Describe methods employed to control erosion in the permit area. Be specific, i.e., seeding and mulching, sediment basins or ponds, contour ditching, waterbars, etc.

All of the above.

- j) Will settling ponds/dams be constructed? ..... ☒ yes ☐ no  
State the number and size of the impoundment(s) and how they will be built. Will the pond be excavated or will berms be constructed? Locate on a mine plan map.

2 or 3 on site settling ponds will be excavated and bermed to contain rain water

- k) If dams will be constructed, how high will they be and what is the maximum amount of water (in acre feet) to be impounded behind each dam?

N/A

*If a dam is higher than 10 feet, and stores more than 9.2 acre feet of water, approval from the Water Resources Dept. is required prior to construction.*

**WRD**

- l) If berms or a dam will be constructed, describe construction details and attach a sketch showing construction methods.

N/A

- m) How deep will impoundment(s) be? N/A  
n) If the impoundment(s) are to be removed upon completion of mining, how will they be drained and/or filled?

N/A

- o) Will settling ponds, wetlands, or a water impoundment be left upon final reclamation? ..... ☒ yes ☐ no

## 6. GROUNDWATER INFORMATION

- a) Proposed mine depth +200'  
b) Groundwater depth varies - 145'  
(Under static (pre-mine) conditions)  
c) What is groundwater depth estimate based on?  
surrounding well logs

- d) Flow direction of groundwater, if known. unknown  
e) Distance to closest well outside the permit boundary:  
Within 300' of boundary

## 7. VISUAL AND NOISE SCREENING

Screening can be very effectively employed to isolate sites from public notice and to minimize noise from operations.

- a) Does a natural landform or vegetative screen currently exist along the permit boundary? ..... ☒ yes ☐ no  
If yes, what screen width will be maintained during mining?

200'

- b) Will a berm and/or vegetation be established to develop a visual screen for the operation? ..... ☐ yes ☒ no  
If yes, describe the height and width of the berms and/or the type and density of vegetation; show location on mine map.

(Crushed rock stockpiles, although not permanent, can also be used to reduce noise from the operation.)

## 8. EQUIPMENT AND STRUCTURES REMOVED

- a) Upon final reclamation, will all structures, visual berms, equipment, and refuse be removed? ..... ☐ yes ☒ no  
If no, explain what will be left.  
berm will be removed and leveled

## 9. RECLAMATION TECHNIQUES

- a) What will be done with oversized rock not used during mining?  
removed and crushed

- b) What will be the average depth of soil replaced on the area to be reclaimed? 12-24"

*If less than 12" of topsoil is available, a substitute material may be required.*

- c) Will additional material be utilized as a soil substitute to complete the revegetation? ..... ☒ yes ☐ no  
If yes, specify type(s), amount(s), and source(s).

fine and rejected materials

will be used

- d) Will any waste products, such as tailings, crusher rejects, etc., be generated during mining? ..... ☒ yes ☐ no  
If yes, what will be done with them?

fine and rejected materials

will be used

- e) How will processing and stockpile sites be reclaimed? If they are to be revegetated, explain procedures which will be employed to decompact areas prior to topsoiling/seeding.  
decompacted soils and respread

## 10. REVEGETATION TECHNIQUES

- a) Species to be seeded/planted by type and amount.  
Native grasses - 11 lbs/acre  
Douglas fir - 12' trees on center  
300 per acre

- b) Describe method and time of year for planned planting.  
broadcast seeding, spring or fall

- c) List fertilizers and lime to be used (include amount) if needed

- d) List type and amount of mulch or other erosion control techniques such as erosion netting.

straw on sloped areas with  
broadcast seed

*Vegetative survival comparable to the density of original ground cover will normally be considered acceptable.*

## 11. RECLAMATION PROCEDURES - POST-MINE DRAINAGE CONTROL AND RECONSTRUCTION

- a) During reclamation, will stream channel and/or bank stabilization and rehabilitation be necessary? ... ☐ yes ☒ no  
If yes, attach plans. .... ☐ n/a

*A Division of State Lands' permit is required for relocation of all perennial and some intermittent water courses.*

**DSL**

- b) How will surface water runoff and erosion be controlled upon completion of mining? Describe and list structures that will be used.

V ditches and settling ponds  
containing water on site

## 12. RECLAMATION PROCEDURES - IMPOUNDMENTS & POND DECOMMISSIONING

- a) Will dewatering be required? ..... ☐ yes ☒ no  
b) Will it be necessary to backfill a water filled excavation pit or pond? ..... ☐ yes ☒ no  
c) How will settling ponds be stabilized and revegetated?  
revegetate with grasses

- d) How will quality of imported backfill be monitored to protect groundwater quality?

N/A

*Monitoring may be required to ensure groundwater protection.*

### 13. RECLAMATION PROCEDURES - LAND SHAPING

Long continuous slopes should be avoided or broken up with surface contours, ditches, or complex slope shape.

- a) What will be the:
- steepest above-water *excavated* slopes left after mining? ( $1\frac{1}{2}:1$  is generally maximum)  $1-1\frac{1}{2}:1$
  - steepest above-water *fill* slopes left after mining? ( $2:1$  is generally maximum)  $2:1$
- b) What will be done to ensure the stability of excavated slopes?  
Slopes will be benched (as shown on attached map), reseeded and revegetated
- c) What will be done to ensure the stability of fill slopes?  
Compacted slopes will be benched (as shown on attached map), reseeded and revegetated
- d) Will this site be shaped or backfilled to blend in with surrounding topography? ☒ yes ☐ no

### 14. POST-MINING WATER IMPOUNDMENT(S)

- a) Number of impoundment(s) N/A
- b) Use of impoundment(s) N/A
- c) Total surface area in acres N/A
- d) Average depth N/A

- e) How much is the water level expected to fluctuate annually?  
N/A

- f) What will be the steepest and flattest in-water slopes left after mining?  
N/A

*Generally 3:1 in-water slopes are the steepest allowable, except off islands. To increase potential for wetland habitat establishment, 5:1 to 20:1 slopes are needed.*

- g) Will shallow ponds, shorelines, or other areas conducive to wetland plant development be left? ☐ yes ☒ no
- h) What will be the impoundment water source?  
N/A

**WRD** *A water right for the water source may be needed from the Water Resources Department.*

- i) What will be done for wildlife & fish enhancement, e.g. fish structures, islands, peninsulas, and irregular shorelines?  
N/A

- j) If wetlands are to be constructed, explain the methods and final configuration.  
N/A

### 15. OTHER PERMITS

In order to assist other agencies in the review of this plan and their ability to ascertain compliance with their laws, list all permits by type and number that are held (or applications filed) for this mine site or processing equipment (such as fill/removal permits, water rights, air quality and stormwater or waste water permits).

Agency/Permit/Type	Permit Number
Lane County current zoning QM - see attached map	
Exhibit	

## 16. LANDOWNER CONSENT

As surface or mineral rights owner, I concur with the proposed subsequent use for any mining operation and with the operating and reclamation plan as submitted. I also agree to allow access to the State Department of Geology and Mineral Industries or their contractor for reclamation of the mine site if it is declared abandoned by the Department of Geology and Mineral Industries. By my signature below, I certify that I have a legal right to sign this document.

*Appropriate signatures are needed for EACH land parcel.*

I CONCUR (Surface Rights) LeeLynn, Inc., Wiley Mt.,  
Name (Please Print or Type) Inc., ATR Land, LLC  
Signature *Ray A. Miller*  
Title V.P.  
Date 12/3/09

I CONCUR (Mineral Rights) LeeLynn, Inc., Wiley Mt.,  
Name (Please Print or Type) Inc., ATR Land, LLC  
Signature *Ray A. Miller*  
Title V.P.  
Date 12/3/09

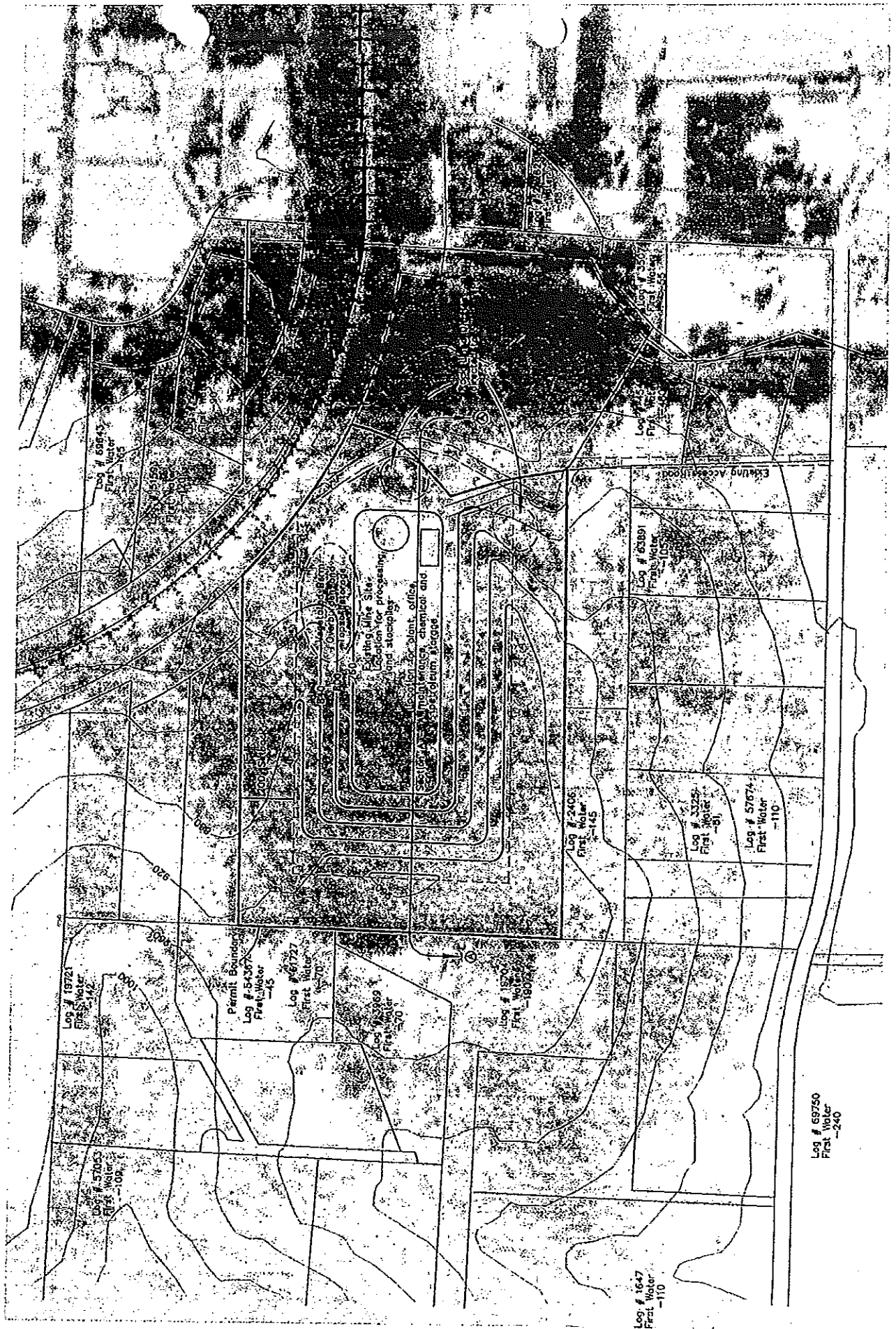
## 17. APPLICANT'S ACCEPTANCE

Name (Please Print or Type) Lost Creek Rock Products, LLC  
Signature *Ray A. Miller*  
Title Authorized Agent  
Date 12/3/09

## 18. PREPARED BY (IF OTHER THAN APPLICANT)

Name (Please Print or Type) Lost Creek Rock Products, LLC  
Signature *Philip L. Miller*  
Title \_\_\_\_\_  
Company \_\_\_\_\_  
Date December 3, 2009

ID No. \_\_\_\_\_





State of Oregon  
Department of Forestry - Department of Revenue  
Notification Number: 2010-771-00387  
Timber Sale: Lost Creek



Attached is the processed information from the Notification of Operation/Application for Permit signed by Michael Counts representing the Timber Owner, and received by Department of Forestry on March 11, 2010. Please review this information and retain for future reference.

**Notices and Permits**

Notice is given to the State Forester that an operation will be conducted on the lands described herein.

A permit to use fire or operate power driven machinery is issued for the land described herein.

A notice is given to the State Forester and the Department of Revenue of the intent to harvest timber.

SF Comments: No operations within 100' of Lost Creek.

**LEGAL NOTICE**

The following section provides legal notification of the requirement to submit a written plan before certain portions of this Operation may begin. The requirements are indicated below:

Based on information provided by the applicant, no Written Plans were required at the time this notice was sent. Written Plans may be required at a future date if new protected resources or other information is discovered.

**Notification 15 Day Waiting Period:**

This Operation is subject to the 15 day Waiting Period.

**Operator:**

McDougal Bros. Investments  
P.O. Box 518  
Creswell, OR 97426  
(541)554-4493

**Fire Contact:**

Mike Counts  
(541) 554-4493

**Land Owner:**

Lee Lynn Inc. & Wiley Ott, Inc.  
P.O. Box 518  
Creswell, OR 97426  
(541)895-8788

Notice to Land Owner: If timber harvesting is part of the proposed operation, the party shown above, is responsible for reforestation of the site if so required.

**Timber Owner:**

McDougal Bros. Investments  
P.O. Box 518  
Creswell, OR 97426  
(541)554-4493

Notice to Timber Owner: If timber harvesting is part of the proposed operation, the party shown above, owning the timber at the point it is first measured is responsible for payment of Oregon timber taxes.

District: South Cascade

Office: Springfield Unit

County: Lane

(Operator's Copy)

Marvin D. Brown, State Forester  
Lena Tucker, District Forester

McDougal Bros. Investments  
P.O. Box 518  
Creswell, OR 97426

Unit Information - Notification: 2010, 00387  
 Unit 1 of 1 Start:03/12/10 End:12/31/10  
 Status: Active  
 Stewardship Forester: Marvin Vetter

Site Conditions Waters: Not Applicable.  
 Soils: Old slides\small failures.  
 Slope: 0% to 35%.  
 SF Phone Number: (541)726-3588

Priorities: Fire: High FPA: Medium

Twp	Rge	Sec	NE	NW	NE SW	SE	NE	NW	NW SW	SE	NE	NW	SW SW	SE	NE	NW	SE SW	SE	Government Lot Number	Tax Lot No.	Reg Use
19S	01W	20	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			EL-1
19S	01W	21	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			EL-1

Unit Activity Summary : Est. Harvest 90 Acres

2000 Feet 1000 MBF

Nonstatutory Written Plan Not Required.  
 Statutory Written Plan Not Required.

Activity	Method	Acres	Feet	MBF	Comment
1b - Clear-Cut, Overstory Removal	Do,Gr	90	0	1000	
2b - Road Reconstruction	Do,Gr	0	2000	0	
8 - Rock plts	Do,Gr,Ot	0	0	0	Excavator

Resource Name	Resource Description
	No Waters Found.
	No Threatened or Endangered Species Found.
	No Special Concerns Found.
No Subscribers to this Unit.	

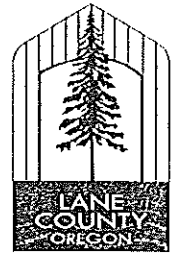


October 20, 2010

ATR Land LLC  
P.O. Box 876  
Veneta, OR 97487

Leelynn Inc.  
Wiley Mt. Inc.  
P.O. Box 518  
Creswell, OR 97426

Concerning: TRS 19 01 20 Tax Lot 3400  
Parvin Butte  
File: CA 10-0200



LAND MANAGEMENT DIVISION  
[http://www.LaneCounty.org/PW\\_LMD/](http://www.LaneCounty.org/PW_LMD/)

### REQUEST FOR VOLUNTARY CORRECTION

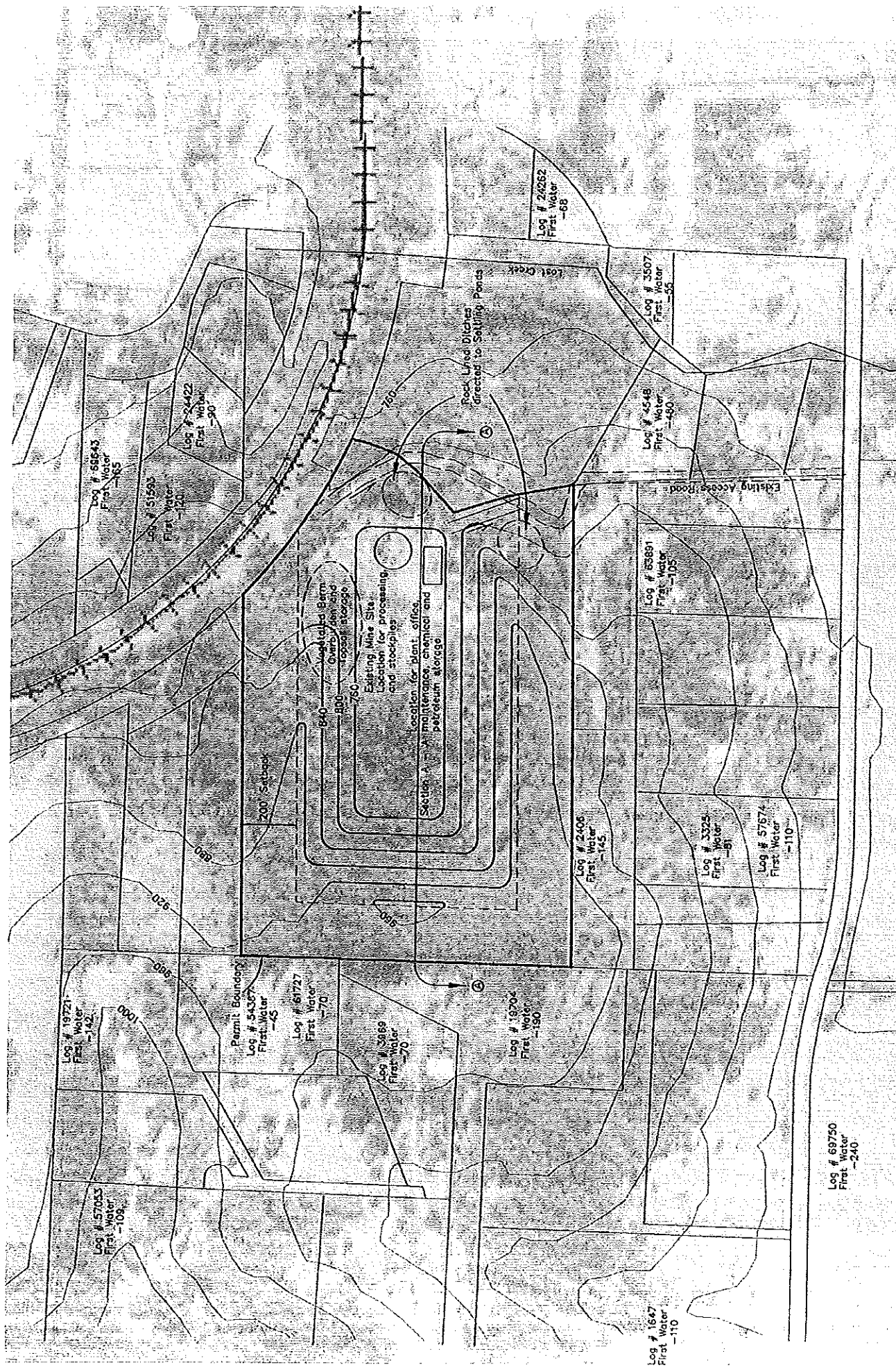
Operating Permit 20-164, was issued on March 3, 2010, from the Oregon Department of Geology and Mineral Industries. The property is zoned QM, Quarry and Mine Operations Zone, and Lane Code 16.216(5) requires Site Review per Lane Code 16.257. Lane Code 16.257(3)(c) is not applicable because the DOGAMI operating permit boundary extends to the property line.

You are being asked to voluntarily comply with the Lane Code requirements above by submitting the required Site Review application in conjunction with DOGAMI permit 20-164 by November 19, 2010 to avoid further enforcement.

If you have any questions, please contact Stephanie Schulz at 541-682-3958.

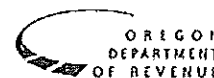
Sincerely,

Jane Burgess  
Compliance Officer  
541-682-3724  
[jane.burgess@co.lane.or.us](mailto:jane.burgess@co.lane.or.us)





State of Oregon  
Department of Forestry - Department of Revenue  
Notification Number: 2010-771-00387  
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McDougal Bros. Investments  
P.O. Box 518  
Creswell, OR 97426  
(541)554-4493

Notice to Timber Owner: If timber harvesting is part of the proposed operation, the party shown above, owning the timber at the point it is first measured is responsible for payment of Oregon timber taxes.

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Office: Springfield Unit

County: Lane

(Operator's Copy)

Marvin D. Brown, State Forester  
Lena Tucker, District Forester

McDougal Bros. Investments  
P.O. Box 518  
Creswell, OR 97426

Unit Information - Notification: 2010, 100387

Unit 1 of 1 Start:03/12/10 End:12/31/10

Status: Active

Stewardship Forester: Marvin Vetter

Site Conditions Waiver: Not Applicable.

Soils: Old slides\small failures.

Slope: 0% to 35%.

SF Phone Number: (541)726-3588

Priorities: Fire: High FPA: Medium

Twp	Rge	Sec	NE	NW	NE SW	SE	NE	NW	NW SW	SE	NE	NW	SW SW	SE	NE	NW	SE SW	SE	Government Lot Number	Tax Lot No.	Reg Use
19S	01W	20	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			EL-1
19S	01W	21	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			EL-1

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2b - Road Reconstruction	Do,Gr	0	2000	0	
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Resource Name	Resource Description
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No Subscribers to this Unit.	

Oregon Dept. of Geology & Mineral Industries  
Mineral Land Regulation & Reclamation Program  
229 Broadalbin St. SW  
Albany OR 97321-2246  
(541) 967-2039

OPERATING PERMIT -- New  
ISSUED SUBJECT TO ANY LISTED CONDITIONS

|||||

Lost Creek Rock Products LLC  
PO Box 518  
Creswell OR 97426

ID No.: 20-0164  
County: Lane  
Section: 20  
Twp: 19S  
Range: 1  
Tax Lot: 3400  
Site Name: Lost Creek

This permit shall be in effect, unless revoked or suspended for cause, from the date of issuance and shall remain in effect so long thereafter as the Permittee pays the annual fee to renew the permit, complies with the provisions of ORS 517.750 through 517.955 as applicable, the Rules as promulgated to administer the Oregon Mined Land Reclamation Act, the approved reclamation plan, and any conditions attached to this permit, and maintains a performance bond as required by the Act.

Issuance of this permit is not a finding of compliance with state-wide planning goals or the acknowledged comprehensive plan. The applicant must receive land-use approval from local government before using this permit.

NOTE: Reclamation plans may be modified per ORS 517.830(4) and OAR 632-(30) and (35)-035.

**CONDITIONS:** *(Conditions may be appealed per OAR 632-30-030. If an appeal is made, this permit is invalid until the condition(s) appealed is/are resolved and the permit reissued.)*

The Permittee must:

1. survey and clearly mark the 51.5-acre permit boundary and the 200-foot setback to that boundary. The setback must be visible to all equipment operators.
2. salvage all available soil material and retain on-site for final reclamation. Soil stockpiles and berms must be seeded in a cover crop by October 1 of each year until vegetation is established.
3. ensure that all final excavation slopes are 1.5(H):1(V) or flatter.

SEE PAGE TWO FOR ADDITIONAL CONDITIONS

Issued 3-3-10, 2010

*Frank Schulte*  
Gary W. Lynch  
Assistant Director

**RENEWAL IS REQUIRED BY DECEMBER 31, 2010**

c: Lane County Planning Department

The Permittee must:

4. ensure that all final fill slopes are 2(H):1(V) or flatter.
5. submit a post-mine drainage plan for review and approval prior to creating any final fill slopes greater than 100 feet in length that are sloped at, or steeper than, 2(H):1(V).
6. obtain a DEQ NPDES 1200-A permit prior to any discharge of pit water or stormwater beyond the permit boundary.
7. at final reclamation, rip the quarry floor prior to spreading a minimum of 2 feet of soil and/or soil substitute material over the quarry floor, highwall benches, and the processing/stockpile areas.
8. replant Douglas-fir on 12-foot centers on the quarry floor, and reseed all other areas not planted back to trees with a native grass seed mix, including the horizontal benches on the highwall.
9. amend this Operating Permit prior to conducting mine dewatering.
10. maintain a 200-foot undisturbed setback from the processing/excavation areas to the property line/DOGAMI permit boundary.
11. agree that if mining operations disturb any area outside of the permit boundary, or area designated for active mining in the reclamation plan, including, but not limited to, disturbances caused by landslide, erosion, or fly-rock; the operator must restore the disturbed area to a condition that is comparable to what it was prior to the disturbance. Further, if areas outside of the permit boundary or outside of the area proposed for active mining in the reclamation plan are disturbed, DOGAMI may increase the amount of the required financial security to cover the cost of such restoration.

**LARRY O. GILDEA**

Attorney at Law

Larry O. Gildea

324 East 12th Avenue, Suite 2  
Eugene, Oregon 97401-3274

Wendy Mechling  
Legal Assistant

Telephone (541) 342-1771  
Facsimile (541) 895-8787

January 5, 2011



VIA FACSIMILE

541-682-3803

7 page(s)

and email

stephen.vorhes@co.lane.or.us

Stephen L. Vorhes  
Lane County Office of Legal Counsel  
125 East 8th Avenue  
Eugene, OR 97401

Re: Parvin Butte Quarry (Lost Creek)

Dear Steve:

This letter follows up on our meeting in your office on December 8, 2010, and will define the position of the owners of the Parvin Butte Quarry.

Enclosed are copies of the following correspondence: (1) October 20, 2010 letter from Jane Burgess to ATR Land, LLC and LeeLynn, Inc. and Wiley Mt., Inc.; (2) October 25, 2010 letter from me to Stephanie Schultz; (3) November 23, 2010 letter from Jane Burgess to me.

It is my understanding that Lane County wants to require a site review under Lane Code 16.257(2)(f) because the QM-RCP zone specifically requires a site review permit. LC 16.216(5) requires a site review for certain uses permitted under LC 16.216(4). The code states: "Site Review Required. Uses permitted by LC 16.216(4)(a), (b), (c), (d), and (e) above shall be subject to the provisions of LC 16.257 (Site Review)." (emphasis added)

The owner believes that roads serving a mining use on the site are outside the site review net under the language of both LC 16.216 and LC 16.257.

**EXHIBIT D**

The language of LC 16.216(5) imposes Site Review on the elements of the use listed in LC 16.216(4)(a) through (e). None of the items listed in these five subsections includes construction or use of roads into the site to transport the product of the mining use. The five subsections include the following elements of the use:

- (a) Extracting and storing of minerals, including equipment and materials necessary to carry out these functions.
- (b) Plants for the processing of minerals from quarry and mine extraction operations.
- (c) Sale of products generated from the quarrying and mining operation.  
16.216 Lane Code
- (d) Activities permitted or required as part of the reclamation process provided for in the Reclamation Plan.
- (e) Structures and buildings used in conjunction with the extracting and storing of minerals or related equipment as defined in LC 16.216(4)(a) above.

Getting trucks to the mining use and getting the processed rock off the site in trucks does not fall within the footprint of anything listed above.

In addition, the site review requirement is subject to the provisions of LC 16.257 in its entirety. LC 16.257, entitled "Site Review Procedures", has seven numbered sections. Section (1) states the purpose; Section (2) identifies situations which require a site review permit; Section (3) identifies situations where site review permits are not required. Section (3)(c) states that a site review permit is not necessary when: "The proposed uses or improvements are located at least 200 feet from all exterior boundaries of the subject property."

Section (2)(f) is the provision that the County contends requires a site review permit because Section (5) of the QM-RCP zone requires a site review permit. But, Section (5) of the QM-RCP zone makes the site review requirement subject to



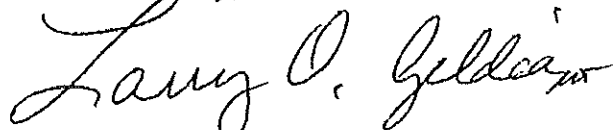
Stephen L. Vorhes  
January 5, 2011  
Page 3 of 3 Page(s)

all of the provisions of LC 16.257. It is, therefore, subject to 16.257(3)(c). Under 16.257(3)(c), if the proposed uses are located at least 200 feet from the exterior boundaries of the property, a site review permit is not required. The proposed use is a mining operation. The site of the mining operation is more than 200 feet from all of the exterior boundaries. Hence, a site review permit is not required.

Lane County may also contend that the access roads to the mining site are themselves a part of the mining operation; and, since they go into the property lines, they and the mining activity itself is within 200 feet of exterior boundaries. We suggest that such an interpretation would completely nullify Section (3)(c) because it would be impossible to have a site where the proposed use was at least 200 feet from all exterior boundaries because all sites have to be accessed. An interpretation that renders a code provision a nullity is disfavored. See *Bryant v. Clackamas County*, 56 Or App 442, 448, 643 P2d 649 (1982); *League of Women Voters v. Metro. Service Dist.*, 17 Or LUBA 949, 955, *aff'd* 99 Or App 333 (1989), *rev denied* 310 Or 70 (1990). Access roads are no more than roads. Truck traffic on an access road is not a mining activity.

Please reconsider the County's interpretation of 16.257(3)(c). Call when convenient. Thank you.

Yours truly,

A handwritten signature in cursive script, reading "Larry O. Gildea". The signature is written in dark ink and is positioned above the printed name.

Larry O. Gildea

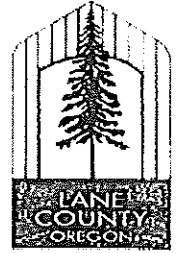
LOG:mt  
Enclosures

cc: Bill Kloos

October 20, 2010

ATR Land LLC  
P.O. Box 876  
Veneta, OR 97487

Leelynn Inc.  
Wiley Mt. Inc.  
P.O. Box 518  
Creswell, OR 97426



LAND MANAGEMENT DIVISION  
[http://www.LaneCounty.org/PW\\_LMD/](http://www.LaneCounty.org/PW_LMD/)

Concerning: TRS 19 01 20 Tax Lot 3400  
Parvin Butte  
File: CA 10-0200

### REQUEST FOR VOLUNTARY CORRECTION

Operating Permit 20-164, was issued on March 3, 2010, from the Oregon Department of Geology and Mineral Industries. The property is zoned QM, Quarry and Mine Operations Zone, and Lane Code 16.216(5) requires Site Review per Lane Code 16.257. Lane Code 16.257(3)(c) is not applicable because the DOGAMI operating permit boundary extends to the property line.

You are being asked to voluntarily comply with the Lane Code requirements above by submitting the required Site Review application in conjunction with DOGAMI permit 20-164 by November 19, 2010 to avoid further enforcement.

If you have any questions, please contact Stephanie Schulz at 541-682-3958.

Sincerely,

Jane Burgess  
Compliance Officer

541-682-3724

[jane.burgess@co.lane.or.us](mailto:jane.burgess@co.lane.or.us)

**LARRY O. GILDEA**

Attorney at Law

Larry O. Gildea

324 East 12th Avenue, Suite 2  
Eugene, Oregon 97401-3274

Wendy Mechling  
Legal Assistant

Telephone (541) 342-1771  
Facsimile (541) 895-8787

October 25, 2010

VIA FACSIMILE

541-682-3947

4 page(s)  
and first class mail



Stephanie Schulz  
Land Management Division  
Public Works Department  
125 East 8th Avenue  
Eugene, OR 97401

Re: Your File CA 10-0200  
TRS 19 01 20, Tax Lot 3400

Dear Stephanie:

This letter confirms the information I gave you in our telephone conversation of October 22nd.

I represent the owners of Tax Lot 3400. This letter defines their position with reference to the issue raised in Jane Burgess's letter of October 20, 2010.

The DOGAMI operating permit boundary does extend to the property line. However, the operation itself is at least 200 feet from the nearest property line.

The DOGAMI operating permit contains this provision: "The Permittee must ... maintain a 200-foot undisturbed setback from the processing/excavation areas to the property line/DOGAMI permit boundary." (page 2, provision 10)

Under the DOGAMI permit, our right to conduct operations is limited to an area that is at least 200 feet from the property line and DOGAMI permit boundary.

Stephanie Schulz  
October 25, 2010  
Page 2 of 2 Page(s)

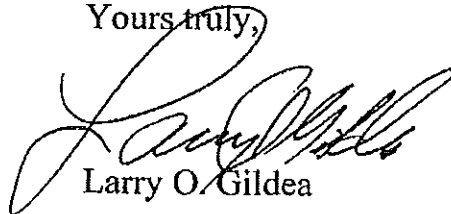
Lane Code 16.257(3) provides that it is not necessary to require a site permit when "(c) the proposed uses or improvements are located at least 200 feet from all exterior boundaries of the subject property."

Enclosed is a copy of the DOGAMI operating permit. I have highlighted the provision on the second page that pertains to our discussions.

I think I also mentioned that the owners are not conducting any excavation or mining operations at this time. They have removed some timber and hauled it away, but they do want to commence operations within the next few months. Please let me know if you see any problems.

Thank you.

Yours truly,



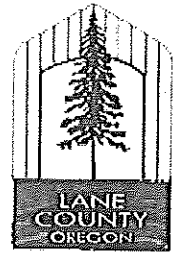
Larry O. Gildea

LOG:mt  
Enclosure

bcc: Bill Kloos

November 23, 2010

Larry O. Gildea  
Attorney at Law  
324 East 12<sup>th</sup> Avenue, Suite 2  
Eugene, OR 97401-3274



LAND MANAGEMENT DIVISION  
[http://www.LaneCounty.org/PW\\_LMD/](http://www.LaneCounty.org/PW_LMD/)

RE: DOGAMI Permit 20-0164 -- Parvin Butte Quarry (Site Name: Lost Creek)  
T19S, R01W, Section 20, tax lot 3400 51.5 acres


Dear Mr. Gildea,

Lane County received your letter in response to the Request for Voluntary Correction issued on October 20, 2010, defining the position of the property owners in reference to the submittal of a Site Review application in conjunction with DOGAMI permit 20-164. We also heard from Bill Kloos on behalf of his clients. The DOGAMI permit boundary for the Quarry operation is the property line as shown on the General site location map, and follows the entire portion of tax lot 3400 that is zoned QM-RCP, Quarry and Mine Operations Zone. Based on that, a Lane Code Site Review permit is required under Lane Code 16.257(2)(f), since the QM-RCP Zone specifically requires a Site Review permit for the type of mining operation permitted outright in that zone. The web survey soil map included with the DOGAMI permit application shows roads that appear to be part of the proposed mining operation and would also be appropriately addressed and included in the Site Review application.

If no mining has occurred yet, be advised a Site Review application must be approved and final before any mining activity begins. If some mining has occurred, no further activity shall occur without the Site Review application being approved and final. I have enclosed copies of a General Land Use application form for the Site Review permit application. The current fee for a Site Review permit is \$7,780.00. Lane Code is available online at <http://www.lanecounty.org/LaneCode/default.htm>. You are also welcome to come in to our office between 9:00 am and 1:00 pm to speak with the Planner on Duty regarding the application or contact Stephanie Schulz at 541-682-3958.

Please don't hesitate to contact me if you have any questions.

Sincerely,

  
Jane Burgess  
Compliance Officer  
(541) 682-3724  
[jane.burgess@co.lane.or.us](mailto:jane.burgess@co.lane.or.us)

cc:

LeeLynn Inc.  
Wiley Mt. Inc.  
ATR Land LLC  
Robert Huston, DOGAMI  
Don Nickell, Consultant  
Bill Kloos, Attorney at Law





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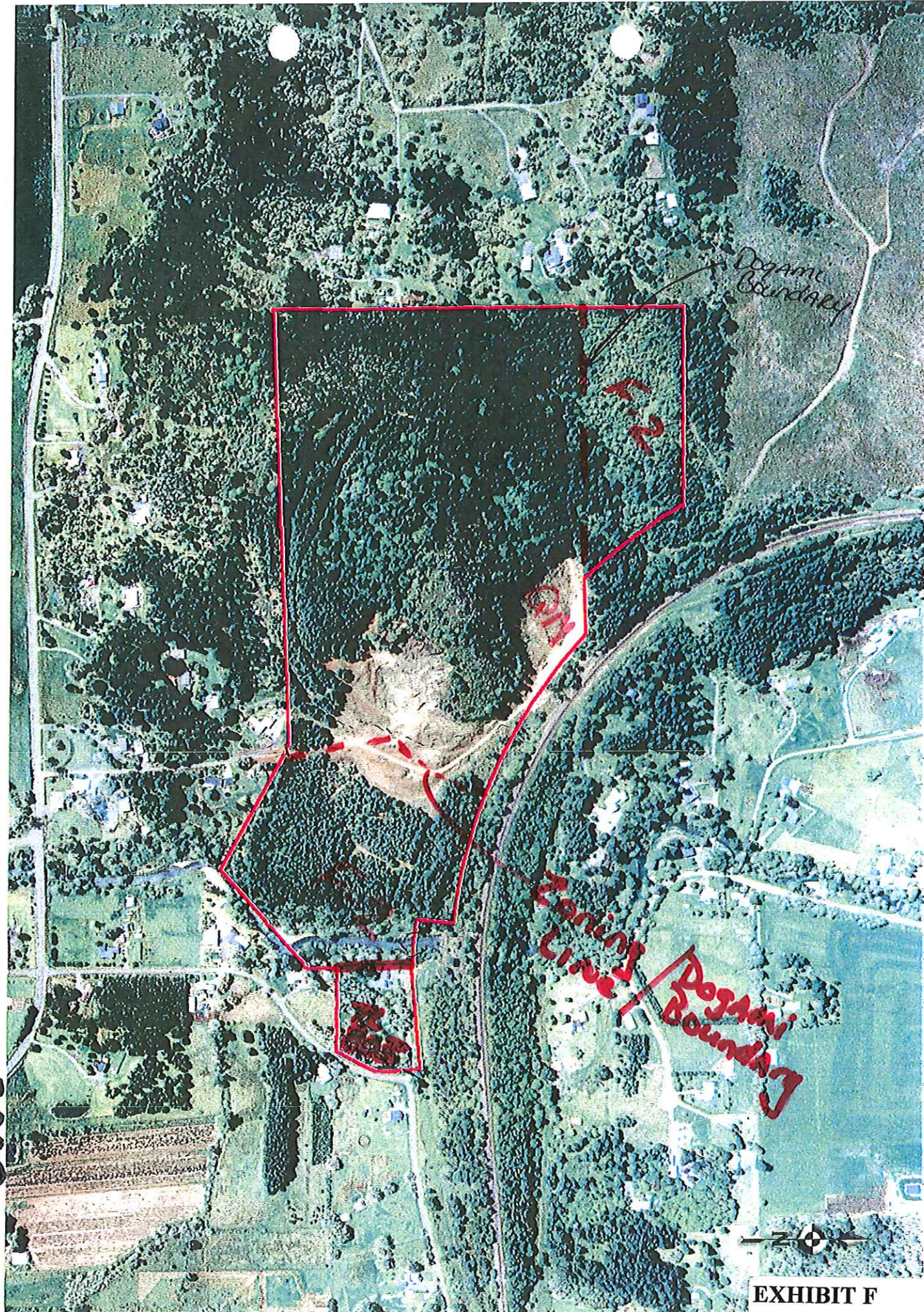


EXHIBIT F